

## SCHEDULE A.

## IMPORT TARIFF—continued.

| No. | DESCRIPTION OF ARTICLE.   | VALUE ON WHICH DUTY<br>IS ASSESSED. | RATE OF DUTY.                |
|-----|---|-------------------------------------|------------------------------|
| 41  | RATTANS AND CANES—  | Rs. A.                              |                              |
|     | Canes, Malacca ...  | 1 0 per dozen.                      | } Seven and a half per cent. |
|     | Rattans ...   | 7 0 per cwt.                        |                              |
|     | All other sorts ...   | <i>Ad valorem.</i>                  |                              |
| 42  | SALT—   |                                     |                              |
|     | imported from any place whether within or without British India,  |                                     | Rs. A.                       |
|     | (a) into British Burma ...  | .....                               | 0 8 per maund.               |
|     | (b) into the territories under the government of the Lieutenant Governor of Bengal ...                          | .....                               | 8 4 "                        |
|     | (c) into any other part of British India ...  | .. ...                              | 1 13 "                       |
| 43  | SEEDS—  |                                     |                              |
|     | Anchuchuck ...  | 10 0 per cwt.                       | }                            |
|     | Anise, Europe ...   | 28 0 "                              |                              |
|     | Assalia ...   | 7 0 "                               |                              |
|     | Cajoo ...   | 3 0 "                               |                              |
|     | Castor ...  | 4 8 "                               |                              |
|     | Cummin ...  | 12 0 "                              |                              |
|     | " Black ...   | 5 0 "                               |                              |
|     | Esubgool ...  | 5 0 "                               |                              |
|     | Linseed ...   | 5 0 "                               |                              |
|     | Methee ...  | 5 0 "                               |                              |
|     | Mustard ...   | 4 8 "                               |                              |
|     | Quince Seed or Badana ...   | 50 0 "                              |                              |
|     | Rape or Sursee ...  | 4 8 "                               |                              |
|     | Sawjeerah ...   | 25 0 "                              |                              |
|     | Tookmeria ...   | 7 0 "                               |                              |
|     | All other sorts, excepting Seeds imported by any Public Society for gratuitous distribution, which are free ... | <i>Ad valorem.</i>                  |                              |
| 44  | SHELLS—   |                                     |                              |
|     | Chanks, "large shells," for Cameos  | 10 0 per hundred.                   | } Seven and a half per cent. |
|     | " White, Live ...   | 6 0 "                               |                              |
|     | " " Dead ...  | 3 0 "                               |                              |
|     | Cowdas, Mozambique and Zanzibar ...   | 3 0 "                               |                              |
|     | " from other places ...   | 0 8 "                               |                              |
|     | Cowries—  |                                     |                              |
|     | Bazar, Common ...   | 4 0 per cwt.                        |                              |
|     | Maldiva ...   | 16 0 "                              |                              |
|     | Sunkley ...   | 40 0 "                              |                              |
|     | Yellow, Superior Quality ...  | 8 0 "                               |                              |
|     | Mother o' Pearl ...   | 8 0 "                               |                              |
|     | Tortoise Shell ...  | 6 0 per lb.                         |                              |
|     | " Nuck ...  | 1 0 "                               |                              |
|     | Nuckla and other sorts ...  | <i>Ad valorem.</i>                  |                              |
| 45  | SILK—   |                                     |                              |
|     | Floss ...   | 8 0 per lb.                         | }                            |
|     | Raw, Charon and Cochin-China ...  | 4 0 "                               |                              |
|     | " Mathow ...  | 1 12 "                              |                              |
|     | " Other kinds of China ...  | 7 0 "                               |                              |
|     | " Persian ...   | 5 0 "                               |                              |
|     | " Punjum and Cutchra ...  | 1 12 "                              |                              |
|     | " Siam ...  | 4 0 "                               |                              |

## SCHEDULE A.

## IMPORT TARIFF—concluded.

| No. | DESCRIPTION OF ARTICLE.                                     | VALUE ON WHICH DUTY<br>IS ASSESSED. | RATE OF DUTY.                |
|-----|---|-------------------------------------|------------------------------|
|     | <b>SILK—continued.</b>                                      | <b>Rs. A.</b>                       |                              |
|     | Sewing Thread, China ...                                    | 8 0 per lb.                         | } Seven and a half per cent. |
|     | Other sorts ...   | <i>Ad valorem.</i>                  |                              |
|     | Silk Piece Goods of sorts ...                               | <i>Ad valorem.</i>                  | Five per cent.               |
| 46  | SOAP ...  | <i>Ad valorem.</i>                  | } Seven and a half per cent. |
| 47  | <b>SPICES—</b>  |                                     |                              |
|     | Aloe Wood ...   | 3 0 per lb.                         |                              |
|     | Aniseed Star ...  | 40 0 per cwt.                       |                              |
|     | Betelnut, White, Sheverdhun ...                             | 18 0 "                              |                              |
|     | " all other kinds ...                                       | 4 0 "                               |                              |
|     | " in husk ...   | 2 0 per thousand.                   |                              |
|     | Cassia Buds, Nagkessur, China ...                           | 0 8 per lb.                         |                              |
|     | Chillies, Dried ...   | 8 0 per cwt.                        |                              |
|     | Cloves ...  | 12 0 "                              |                              |
|     | " in Seeds, Nurlavung ...                                   | 8 0 "                               |                              |
|     | Mace ...  | 0 9 per lb.                         |                              |
|     | " false ...   | 10 0 per cwt.                       |                              |
|     | Nutmegs ...   | 0 10 per lb.                        |                              |
|     | " in Shell ...  | 0 6 "                               |                              |
|     | " Wild ...  | 12 0 per cwt.                       |                              |
|     | Pepper, Black and Long ...                                  | 14 0 "                              |                              |
|     | " White ...   | 25 0 "                              |                              |
|     | All other kinds ...   | <i>Ad valorem.</i>                  |                              |
| 48  | STATIONERY OTHER THAN PAPER ...                             | <i>Ad valorem.</i>                  |                              |
| 49  | <b>SUGAR AND SUGAR-CANDY—</b>                               |                                     |                              |
|     | Sugar-Candy, China ...                                      | 20 0 per cwt.                       |                              |
|     | " Loaf ...  | 23 0 "                              |                              |
|     | " Soft ...  | 12 0 "                              |                              |
|     | All other sorts of Saccharine Pro-<br>duce ...              | <i>Ad valorem.</i>                  |                              |
| 50  | TEA ...   | 1 0 per lb.                         |                              |
| 51  | <b>TOBACCO—</b>   |                                     | } Ten per cent.              |
|     | Manufactured ...  | <i>Ad valorem.</i>                  |                              |
|     | Unmanufactured ...  | <i>Ad valorem.</i>                  |                              |
|     | Articles, such as Pipes, &c., used in<br>consumption of ... | <i>Ad valorem.</i>                  | } Seven and a half per cent. |
| 52  | TOYS AND REQUISITES FOR ALL GAMES...                        | <i>Ad valorem.</i>                  |                              |
| 53  | <b>UMBRELLAS—</b>   |                                     |                              |
|     | Cotton, Steel Ribs ...                                      | 0 13 each.                          |                              |
|     | " Cane Ribs ...   | 0 11 "                              | } Seven and a half per cent. |
|     | " China Paper Kettisals ...                                 | 45 0 per box of 110                 |                              |
|     | All other sorts ...   | <i>Ad valorem.</i>                  |                              |
| 54  | <b>WOOLLEN GOODS—</b>                                       |                                     | } Seven and a half per cent. |
|     | Piece Goods ...   | <i>Ad valorem.</i>                  |                              |
|     | Braid ...   | } <i>Ad valorem.</i>                |                              |
|     | • Other sorts ...   |                                     |                              |

## SCHEDULE B.

### EXPORT TARIFF.

| No. | DESCRIPTION OF ARTICLE.                | VALUE ON WHICH DUTY<br>IS ASSESSED. | RATE OF DUTY.           |
|-----|--|-------------------------------------|-------------------------|
|     |  | Rs. A.                              |                         |
| 1   | COTTON GOODS—                          |                                     |                         |
|     | Piece Goods—                           |                                     |                         |
|     | Baftahs ...                            | 30 0 per score.                     | } Three per cent.       |
|     | Gurrah ...                             | 20 0 "                              |                         |
|     | Khurwah ...                            | 25 0 "                              |                         |
|     | Mamoodie ...                           | 32 0 "                              |                         |
|     | Mirzapore Chintz ...                   | 15 0 "                              |                         |
|     | Patna ...                              | 30 0 "                              |                         |
|     | Shans ...                              | 40 0 "                              |                         |
|     | Tunjeeb, Oudh ...                      | 26 0 "                              |                         |
|     | Other sorts ...                        | <i>Ad valorem.</i>                  |                         |
|     | Twist, Country, No. 10 ...             | 0 7 per lb.                         |                         |
|     | " " " 20 ...                           | 0 9 "                               |                         |
|     | " " " 30 ...                           | 0 10 "                              |                         |
|     | " Hand Spun ...                        | 0 5 "                               |                         |
|     | All other kinds of Cotton Goods ...    | <i>Ad valorem.</i>                  |                         |
| 2   | GRAIN OF ALL SORTS ...                 | .....                               | Three annas per maund.  |
| 3   | HIDES AND SKINS, TANNED—               |                                     |                         |
|     | Hides—                                 |                                     |                         |
|     | Buffaloe, Country, Tanned ...          | 70 0 per score.                     | } Three per cent.       |
|     | Cow " ...                              | 50 0 "                              |                         |
|     | Skins—                                 |                                     |                         |
|     | Goat and Sheep ...                     | 10 0 "                              |                         |
|     | Lamb ...                               | 5 0 "                               |                         |
|     | Any other sorts of Hides and Skins ... | <i>Ad valorem.</i>                  |                         |
| 4   | INDIGO ...                             | .....                               | Three rupees per maund. |
| 5   | LAC—                                   |                                     |                         |
|     | Button ...                             | 28 0 per cwt.                       | } Four per cent.        |
|     | Dye ...                                | 45 0 "                              |                         |
|     | Seed ...                               | 20 0 "                              |                         |
|     | Shell ...                              | 28 0 "                              |                         |
|     | Stick ...                              | 16 0 "                              |                         |
|     | Other sorts ...                        | <i>Ad valorem.</i>                  |                         |
| 6   | OILS—                                  |                                     |                         |
|     | Castor ...                             | 16 0 per cwt.                       | } Three per cent.       |
|     | Cocconut ...                           | 20 0 "                              |                         |
|     | Fish ...                               | 15 0 "                              |                         |
|     | Grass ...                              | 2 0 per lb.                         |                         |
|     | Jingeely or Teel ...                   | 20 0 per cwt.                       |                         |
|     | Linseed ...                            | 18 0 "                              |                         |
|     | Mhowa ...                              | 12 0 "                              |                         |
|     | Mustard ...                            | 16 0 "                              |                         |
|     | Poppy ...                              | 20 0 "                              |                         |
|     | Rape or Sursee ...                     | 16 0 "                              |                         |
|     | Sandalwood ...                         | 8 0 per lb.                         |                         |
|     | Other sorts ...                        | <i>Ad valorem.</i>                  |                         |



## SCHEDULE B.

EXPORT TARIFF—*continued.*

| No. | DESCRIPTION OF ARTICLE.          | VALUE ON WHICH DUTY<br>IS ASSESSED. | RATE OF DUTY.     |
|-----|----------------------------------|-------------------------------------|-------------------|
|     |                                  | Rs. A.                              |                   |
| 7   | SEEDS—                           |                                     |                   |
|     | Castor Seed (Erundee) ...        | 4 8 per cwt.                        | } Three per cent. |
|     | Coriander Seed ...               | 4 0 "                               |                   |
|     | Cummin Seed ...                  | 12 0 "                              |                   |
|     | " Black (Caleejeera) ...         | 5 0 "                               |                   |
|     | Ground Nuts, with shell ...      | 5 0 "                               |                   |
|     | " without shell ...              | 6 0 "                               |                   |
|     | Jingety or Teel Seed ...         | 6 0 "                               |                   |
|     | Linseed ...                      | 5 0 "                               |                   |
|     | Methee Seed ...                  | 5 0 "                               |                   |
|     | Mustard Seed ...                 | 4 8 "                               |                   |
|     | Poppy Seed ...                   | 5 8 "                               |                   |
|     | Rape or Sursee Seed ...          | 4 8 "                               |                   |
|     | Other sorts ...                  | <i>Ad valorem.</i>                  |                   |
| 8   | SPICES—                          |                                     |                   |
|     | Aloe Wood ...                    | 3 0 per lb.                         | } Three per cent. |
|     | Betelnut in Husk ...             | 2 0 per 1,000.                      |                   |
|     | Cardamoms ...                    | 200 0 per cwt.                      |                   |
|     | " Large, Bastard ...             | 40 0 "                              |                   |
|     | Chillies, Dried ...              | 8 0 "                               |                   |
|     | Ginger, Dry (Rough), Malabar ... | 10 0 "                              |                   |
|     | " " Bengal ...                   | 7 0 "                               |                   |
|     | " (Scraped) ...                  | 15 0 "                              |                   |
|     | Pepper ...                       | 15 0 "                              |                   |
|     | Turmeric ...                     | 5 0 "                               |                   |
|     | All other sorts ...              | <i>Ad valorem.</i>                  |                   |

## SCHEDULE C.

(See Section 8.)

| NUMBER AND YEAR.    | SUBJECT OR TITLE.   | EXTENT OF REPEAL.   |
|---------------------|---|---|
| Act XIV of 1836 ... | Bengal Customs ...  | So much as has not been repealed.   |
| " I of 1852 ...     | An Act for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay.                          | So much as has not been repealed.   |
| " XXX of 1854 ...   | An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.                           | Section three from the beginning down to and including the words "shall be free; provided that" |
| " XXII of 1859 ...  | An Act to amend Act I of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay). | So much as has not been repealed.   |

SCHEDULE C—*continued.*

| NUMBER AND YEAR.    | SUBJECT OR TITLE.  | EXTENT OF REPEAL.                            |
|---------------------|--|--|
| Act III of 1861 ... | An Act to provide for the collection of Duty of Customs on Pepper exported by Sea from the British Port of Cochin.         | The whole.                                   |
| „ II of 1868 ...    | An Act to alter the rate of duty leviable on pepper exported from Cochin.  | The whole.                                   |
| „ XXIV of 1869 ...  | An Act to enhance the price of Salt in the Presidency of Fort St. George and the duty on Salt in the Presidency of Bombay. | In section two, the words “either by sea or” |
| „ XVII of 1870 ...  | An Act to amend the Law relating to Customs Duties.  | The whole.                                   |

## STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to consolidate the eight Acts in which the law relating to the customs-duties leviable on goods (including salt and opium) imported or exported by sea, is now inconveniently contained.

At the same time the following amendments have been made in the substance of the law.

A section (3) has been introduced to provide for the case of goods of which a part or ingredient is liable to duty. This provision is taken from 23 & 24 Vic., c. 110.

Asphalte is introduced into schedule A, and charged with a duty of seven and a half per cent. on a value of twenty rupees per ton.

Articles intended for the permanent way of railways are admitted at one per cent. *ad valorem*.

The Bill also incorporates the recent orders of the Government of India in the Financial Department respecting (a) betel-nut, (b) kerosine and other oils, (c) timber and woods, and (d) the exemption from export-duties of articles which have been imported by sea.

R. TEMPLE.

The 16th December 1870.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th January 1871, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 3 of 1871.

## PLEADERS' BILL, 1871.

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Third Schedule (Stamps on Certificates).



**A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO PLEADERS, MUKHTARS AND REVENUE AGENTS.**

**Preamble.** WHEREAS it is expedient to consolidate and amend the law relating to Pleadars, Mukhtars and Revenue Agents; It is hereby enacted as follows:—

**I.—Preliminary.**

**Short title.** 1. This Act may be cited as "The Pleadars' Act, 1871."

**Local extent.** It extends to the whole of British India.

**Commencement of Act.** And it shall come into force on the first day of May 1871.

**2. On and from that day, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.**

All rules made, penalties prescribed, fees fixed, persons admitted, names enrolled, and sanads or certificates granted under any enactment hereby repealed, shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, and granted under this Act.

**3. In this Act, unless there be something repugnant in the subject or context—**

**"Collector"** includes Officers performing any of the duties of a Collector of land-revenue.

**"Judge"** means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

**"Subordinate Court"** means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. XI of 1865, but excluding the Courts of Small Causes in the Presidency Towns and the Courts of the Recorders in British Burma.

**"District"** means the local jurisdiction of the principal Civil Court of original jurisdiction; and **"District Court"** means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner or any other Court in the territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

**"Office subordinate to such Authority"** and **"Revenue Office"** include Collectors and Deputy Collectors trying suits under Act No. X of 1859.

**II.—Of Pleadars and Mukhtars.**

**4. The High Court is hereby authorised and required, within six months after this Act comes into force, to make rules—**

for the qualification, admission, and enrolment of proper persons to be Pleadars and Mukhtars of the Subordinate Courts,

for the fees to be paid for the examination, admission, and enrolment of such persons,

and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleadars and Mukhtars so admitted and enrolled.

**Alteration of rules.** The High Court may also from time to time alter and add to such rules.

**Publication of rules.** All such rules, alterations and additions shall be published in the local official Gazette.

**5. No person shall appear, plead or act as a Pleadar, or appear or act as a Mukhtar in any Subordinate Court, unless he has been admitted and enrolled and is otherwise duly qualified to practise as a Pleadar or as a Mukhtar, as the case may be, pursuant to the provisions of this Act, and unless he continues to be so qualified and enrolled at the time of his practising as a Pleadar or Mukhtar as aforesaid:**

Provided that every person who, when this Act comes into force in any part of British India other than the territories respectively subject to the Lieutenant Governors of Bengal and the North-Western Provinces, is, or is qualified to act as, a Pleadar in any Subordinate Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleadar in the High Court pursuant to the provisions of this Act, without passing any examination; but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

**6. The High Court shall cause the name of every person admitted a Pleadar or a Mukhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court.**

The Courts shall take judicial notice whether a Pleadar or Mukhtar is enrolled or not.

**7. Pleadars duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the local limits of the appellate jurisdiction of the High Court in which they are enrolled.**

Mukhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

Mukhtars heretofore duly admitted and enrolled as Revenue Agents under Act No. XX of 1865 in the territories subject to the Lieutenant Governor of Bengal, may appear, plead and act in Munsifs' Courts in suits under Bengal Act No. VIII of 1869 (to amend the procedure in Suits between Landlord and Tenant).

**8. Every person admitted to practise as a**

*Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.*

**Pleader or Mukhtár under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he desires ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court.**

Nothing in this section or section seven applies to any Court established by Royal Charter.

**9. The High Court may suspend or dismiss**

*Dismissal of Pleader or Mukhtár convicted of a criminal offence.*

**any Pleader or Mukhtár enrolled under this Act in such Court, who is convicted of any criminal offence.**

**10. The High Court may, also, after such**

*Dismissal of High Court Pleader or Mukhtár guilty of unprofessional conduct.*

**enquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár enrolled as aforesaid, who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.**

**11. If any Pleader or Mukhtár practising in**

*Procedure when charge of unprofessional conduct is brought in a subordinate Court.*

**any subordinate Court, is charged in such Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.**

Such copy and notice shall be served upon the Pleader or Mukhtár at least ten days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If the Judge or Magistrate find the charge established, and consider that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mukhtár.

Such report, when made by any Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with such remarks as he thinks necessary and an expression of his own opinion on the case.

Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid.

The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mukhtár from practising as such in his Court.

**12. The High Court, in any case in which a**

*Power to call for record in case of acquittal under section eleven.*

**Pleader or Mukhtár has been acquitted under section eleven otherwise than by an order of the High Court, may call for the record and pass such order thereon as seems fit.**

**13. The High Court may, from time to time**

*Power to make rules for Mukhtárs on appellate side of High Courts.*

**make rules for the qualification, admission, enrolment, suspension and dismissal of the Mukhtárs practising on the appellate side of such Court.**

*III.—Of Revenue Agents.*

**14. The Chief Revenue Authority is hereby**

*Chief Revenue Authority to make rules as to qualifications of Revenue Agents.*

**authorized and required within six months after this Act comes into force, to make rules for the purpose of defining what qualifications are required for persons to be Revenue Agents.**

Such Authority may from time to time alter and add to the rules so made.

All such rules, alterations and additions shall be published in the local official Gazette.

**15. No person other than a Pleader duly**

*No person to act as Agent in Revenue Office, unless qualified.*

**qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special power of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Chief Revenue Authority or in any Office subordinate thereto, unless he has obtained a certificate from such Authority in the manner hereinafter provided.**

**16. The Chief Revenue Authority shall cause**

*Names of Revenue Agents to be enrolled.*

**the name of every person (hereinafter called a Revenue Agent) who has obtained such certificate to be enrolled in a book to be provided and kept for that purpose by an Officer authorized by such Authority in this behalf.**

**17. Every person admitted to practise as a**

*Enrolment of Revenue Agent in Office in which he usually practises.*

**Revenue Agent under this Act may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he desires ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office.**

Any such Revenue Agent shall also be entitled, on production of the certificate held by him and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices within the limits of the territory under the Chief Revenue Authority.

**18. The Chief Revenue Authority may suspend or dismiss any Revenue**

*Dismissal of Revenue Agent convicted of criminal offence.*

**Agent practising in any Revenue Office, who is convicted of any criminal offence.**



**19.** The Chief Revenue Authority may also, after making such enquiry as it thinks proper, suspend or dismiss any Revenue Agent practising before it who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

*Dismissal of Revenue Agent practising before Chief Revenue Authority and guilty of unprofessional conduct.*

**20.** If any Pleader is, while practising before such Authority, charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Chief Revenue Authority shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it thinks fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Authority.

*Procedure when Pleader is charged with unprofessional conduct before such Authority.*

Pending the investigation and the receipt of the notice last aforesaid, the Chief Revenue Authority may suspend the Pleader from practising before it.

**21.** If any Pleader or Revenue Agent is charged with any such conduct in any Office subordinate to the Chief Revenue Authority, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

*Procedure when Pleader or Revenue Agent is so charged in subordinate Office.*

Such copy and notice shall be served upon the person charged at least ten days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the Officer find the charge established and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Revenue Authority; and such Authority shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled.

The High Court, after making any further enquiry which it thinks necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Authority by whom such report was forwarded.

If the Officer is subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

**22.** The Chief Revenue Authority, in any case in which a Pleader or Revenue Agent has been acquitted under section twenty-one otherwise than by an order of the High Court or Chief Revenue Authority, may call for the record and pass such order thereon as seems fit, subject, in the case of a Pleader, to the provisions of section nineteen.

*Power to Chief Revenue Authority to call for record.*

**23.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Chief Revenue Authority is also a Mukhtár enrolled under the provisions of this Act, the Chief Revenue Authority shall forward a report of the case to the High Court in which he is enrolled.

*Report to High Court when dismissed Revenue Agent is also a Mukhtár.*

Such Court after making any enquiry which it thinks necessary, may suspend or dismiss him as such Mukhtár.

**24.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office:

Provided that the person so commencing and prosecuting all or any such business holds a general or a special power of attorney, as the case may be, in that behalf, from the person so employing him:

Provided also that no person shall act as last aforesaid, unless he has received the general or the special sanction, as the case may be, in that behalf, of the Chief Revenue Authority or other Officer authorized by the Local Government to grant such sanction.

*Sanction required.*

**25.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Chief Revenue Authority or other Officer as aforesaid by whom it was granted.

*Sanction may be revoked or suspended.*

#### IV.—Of Certificates.

**26.** The High Court shall cause certificates, signed by such Officer as the Court appoints in this behalf, to be issued to persons admitted and enrolled under the provisions of this Act as Pleaders or Mukhtárs and entitled to practise as such.

*Certificates to Pleaders and Mukhtárs.*

Any such certificate, when renewed as provided in section nine, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise.

Every Judge so renewing a certificate shall notify such renewal to the High Court.

**27.** Whenever the High Court causes a certificate, whether original or renewed, authorizing the holder to practise as a pleader in any of the following Courts (that is to say) the Courts of Sadr Amín, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, to be issued to a person referred to in the proviso in section five, the Court may, by such certificate, authorize the holder to practise as a pleader in Courts of Small Causes in addition to the Courts above mentioned, but subject to the conditions herein contained, as to the duration of and stamp on a certificate authorizing the holder to practise as a pleader in the same Courts.

*Permission to practise in Mofussil Small Cause Courts.*

**28.** The Chief Revenue Authority shall cause certificates signed by such Officer as the Chief Revenue Authority appoints in this behalf to be issued to persons admitted and enrolled under the provisions of this Act as Revenue Agents and entitled to practise as such.

Any such certificate, when renewed as provided in section twenty-nine, may be issued and signed by the Secretary of the Chief Revenue Authority or by any other Officer authorized by such Authority in that behalf, or by the Collector of the District within the limits of whose jurisdiction, the holder of the certificate practises at the time of renewal.

Every Collector so renewing a certificate shall notify the renewal to the Chief Revenue Authority.

**29.** Every certificate, whether original or renewed, granted under this Act, shall be engrossed upon stamped paper to be supplied by the person entitled to the certificate, and shall be in the form prescribed therefor by the second schedule hereto annexed, and shall authorize the holder to practise for the period of one year from the date of the certificate.

At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer, Judge or Collector signing the renewed certificate.

**30.** The stamp on the certificate, whether original or renewed, shall be of the value prescribed therefor by the third schedule hereto annexed.

**31.** When any Pleader or Mukhtár or Revenue Agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court, Board or Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any Court or Officer to which the High Court or Chief Revenue Authority (as the case may be) orders him to deliver the same.

#### *V.—Of the Remuneration of Pleaders, Mukhtárs, and Revenue Agents.*

**32.** The High Court shall from time to time fix and regulate the fees payable upon all proceedings on the appellate side of such Court and in the subordinate Courts by any party in respect of the fees of his adversary's Pleader.

The Chief Revenue Authority shall from time to time fix and regulate the fees payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent.

Tables of the fees so fixed shall be published in the Official Gazette.

Exception as to agents appointed under section twenty-four.

Nothing in this section applies to Agents appointed under section twenty-four.

**33.** An Attorney-at-law, Pleader, Mukhtár or Revenue Agent may make an agreement in writing with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Attorney, Pleader, Mukhtár or Agent, either by a gross sum, or by commission or percentage, or by salary or otherwise, and either at the same or at a greater or at a less rate as or than the rate at which he would otherwise be entitled to be remunerated, subject to the provisions and conditions in this part of this Act contained:

Provided that when any such agreement is made in respect of business done or to be done in any suit, the amount payable under the agreement shall not be received by the Attorney, Pleader, Mukhtár or Agent until the agreement has been examined and allowed by an Officer of the High Court or District Court. If it appear to such Officer that the agreement is not fair and reasonable, he shall refer it to the Court for opinion, and the Court shall have power either to reduce the amount payable under the agreement or to order the agreement to be cancelled, and the costs, fees, charges, and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

**34.** Such an agreement shall exclude any further claim of the Attorney, Pleader, Mukhtár or Agent beyond the terms of the agreement in respect of any services, fees, charges, or disbursements in relation to the conduct and completion of the business in reference to which the agreement is made, except such services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

**35.** A provision in any such agreement that the Attorney, Pleader, Mukhtár or Agent shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Attorney, Pleader, Mukhtár or Agent, shall be wholly void.

**36.** No suit shall be brought upon any such agreement.

But the High Court or District Court may examine and determine every question respecting the validity or effect of any such agreement.

And on petition of any person, or the representative of any person, a party to such agreement, or alleged to be liable to pay, or claiming to be entitled to be paid, the costs, fees, charges or disbursements in respect of which the agreement is made,

if the agreement appear to such Court to be in all respects fair and reasonable,

the Court may, by order, enforce it in such manner and subject to such conditions, if any, as to the costs of the petition as the Court thinks fit:

But if the agreement does not appear to the Court to be fair and reasonable, the Court may



declare it to be void, and shall thereupon have power—

(a) to order the agreement to be given up to be cancelled,

(b) to direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be ascertained in the same manner as if such agreement had not been made, and

(c) to make such order as to the costs of and relating to such petition, and the proceedings thereon, as the Court thinks fit.

Every petition under this section shall be chargeable under the Court Fees Act, 1870, as if it were a plaint.

Every order under this section may be enforced as if it were a decree.

**37.** No purchase by an Attorney, Pleader, Prohibition of certain stipulations. Mukhtár or Agent of the interest, or any part of the interest, of his client in any suit or other contentious proceeding to be brought or maintained, or in any unsatisfied decree or order,

and no agreement by which an Attorney, Pleader, Mukhtár or Agent retained or employed to prosecute any suit, stipulates for payment only in the event of success in such suit or proceeding,

shall be enforced by any Court or Revenue Authority.

**38.** Where an Attorney, Pleader, Mukhtár or Provision in case of death or incapacity. Agent has made an agreement with his client in pursuance of the provisions of this Act and anything has been done by such Attorney, Pleader, Mukhtár or Agent under the agreement, and before the agreement has been completely performed by him, such Attorney, Pleader, Mukhtár or Agent dies or becomes incapable to act, an application may be made to the High Court or District Court by any party to the agreement, or by the representatives of any such party, and such Court shall thereupon have the same power to enforce or set aside such agreement, so far as the same may have been acted upon, as if such death or incapacity had not happened.

The Court, if it deem the agreement to be in all respects fair and reasonable, may order the amount due in respect of the past performance of the agreement to be ascertained by an officer of the Court, and such officer in ascertaining such amount shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be enforced in the same manner as if the agreement had been completely performed by the Attorney, Pleader, Mukhtár or Agent.

**39.** After any such agreement has been made, As to change of Pleader after agreement. and before the conclusion of the business to which it relates, the client may, notwithstanding such agreement, change his Attorney, Pleader, Mukhtár or Agent.

In case of such change the Attorney, Pleader, Mukhtár or Agent, party to such agreement, shall be

deemed to have become incapable to act under the same within the meaning of section thirty-nine;

and upon any order being made for ascertaining the amount due to him in respect of the past performance of such agreement, the High Court or District Court shall direct the said officer to have regard to the circumstance under which such change has taken place;

and the Attorney, Pleader, Mukhtár or Agent shall not be deemed entitled to the full amount of the remuneration agreed to be paid to him, unless it appear that there has been no default, negligence, improper delay, or other conduct on his part affording reasonable ground to the client for the change.

#### VI.—Penalties.

**40.** Except as herein provided, any person On unqualified persons practising as Pleaders or Mukhtárs. who practises as a Pleader or Mukhtár in any Civil or Criminal Court or Revenue Office, without holding a properly stamped certificate authorizing him so to practise, and then in force, shall be liable, by order of such Court or the Officer at the head of such Office, to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding six months.

He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mukhtár whilst he has been without such certificate.

**41.** Every person practising as a Revenue On unqualified persons practising as Revenue Agents. Agent in any Revenue Office without holding a certificate then in force and without being duly qualified to practise as herein provided,

and any person who having received the sanction mentioned in section twenty-four practises under section fifteen while such sanction continues revoked or suspended,

shall be liable, by order of the Chief Revenue Authority or Officer in whose office he so practises, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three months.

Every person so fined shall be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of such practising.

**42.** Any Pleader or Mukhtár or Revenue Agent On suspended or dismissed pleader, &c., failing to deliver certificate. failing to make such delivery as is required by section thirty-one shall be liable, by order of the Court, Chief Revenue Authority or Officer to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three months.



Any Pleader, Mukhtár or Revenue Agent who, under the provisions of this Act has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Pleader or Mukhtár or Revenue Agent in any Court or Office, shall be liable, by order of such Court or Office to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding six months.

43. Every order under section forty, forty-one or forty-two shall be subject to revision, by the High Court, if the order has been passed by a Court subordinate to the High Court, and by the Chief Revenue Authority, if the order has been passed by an Officer subordinate to such Authority.

44. Any Advocate, Attorney-at-law, Vakíl, On suspended or removed High Court Practitioner practising. or Mukhtár who has been removed or suspended from practice by a High Court and who practises as an Advocate, Attorney, Vakíl, Mukhtár or Revenue Agent after such removal or during such suspension shall, for every such offence, be liable, by order of such Court, to a fine not exceeding, in the case of an Advocate, Attorney or Vakíl, one thousand rupees, and in the case of a Mukhtár, five hundred rupees.

#### VII.—Miscellaneous.

45. To facilitate the ascertainment of the qualifications mentioned in section four and section fourteen, the Local Government to appoint Examiners. Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

46. Any person who, when this Act comes into force in any part of British India other than the territories respectively subject to the Lieutenant Governors of Bengal and the North-Western Provinces is practising as a Pleader in any Court in such part, and who wishes to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising.

Such Court, if subordinate to the High Court, shall forward the application to the High Court.

The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorise the District Judge to grant a certificate to the applicant as provided in sections twenty-six, twenty-nine and thirty.

Applications for enrolment under this section when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

47. Notwithstanding anything hereinbefore contained, any person who at the time when this Act comes into force is duly qualified to practise as a Pleader or Mukhtár in any Court,

or practises as an Agent in any proceeding before the Chief Revenue Authority, or in any office subordinate to such Authority,

in any part of British India other than the territories respectively subject to the Lieutenant Governors of Bengal and the North-Western Provinces, may continue to practise as Pleader or Mukhtár (as the case may be) in such Court for the period of six months from such time without being admitted or enrolled, or having duly obtained a stamped certificate in pursuance hereof in the same manner as if this Act had not been passed.

48. All fees now by law payable on proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable and may be allowed during the said period of six months as if this Act had not been passed.

49. Every person now or hereafter enrolled as Courts in which High Court an Advocate or Vakíl Advocates and Vakils may on the roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything contained in section five or section fifteen, be entitled as such to practise in any Court in British India other than a High Court on whose roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Revenue Agents :

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

50. No Advocate of a High Court shall be required to file or present a filing wakálatnámas. wakálatnáma or any other document empowering him to act.

51. Every person now or hereafter enrolled as Attorney of a High Court an Attorney on the roll may plead in any Court not of any High Court shall, notwithstanding anything contained in section five or section fifteen, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

52. Except as provided by sections thirteen, thirty-two to thirty-nine (both inclusive), forty-four, forty-nine, fifty and fifty-one, nothing in this Act applies—

(a) to Advocates, Vakils and Attorneys at Law admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mukhtárs practising in such Court.

(b) to Pleaders licensed by the Chief Court of the Panjáb, or

(c) to Advocates licensed by the Recorder of any Court in British Burma.

## FIRST SCHEDULE.

(See Section 2.)

| Number and date of enactments. | Title.   | Extent of Repeal.                 |
|--------------------------------|--|-----------------------------------|
| Madras Regulation XIV of 1816. | A Regulation for amending and modifying the Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.           | The whole.                        |
| Bombay Regulation II of 1827.  | A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof.                                   | Chapter VI.                       |
| Act I of 1848 ...              | For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.   | The whole.                        |
| Act XX of 1853 ...             | To amend the law relating to Pleaders in the Courts of the East India Company.   | The whole.                        |
| Act XX of 1865 ...             | To amend the law relating to Pleaders and Mukhtárs.  | The whole.                        |
| Act XXIX of 1865               | To amend the Pleaders, Mukhtárs and Revenue Agents' Act, 1865.   | The whole.                        |
| Act IV of 1866 ...             | To amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.   | Section fifty-one.                |
| Act IX of 1866 ...             | To extend to the Sudder Court of the North-Western Provinces certain provisions of "the Pleaders, Mukhtárs and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865. | The whole.                        |
| Act XXVI of 1867               | An Act to amend the law relating to Stamp duties.  | So much as has not been repealed. |

## SECOND SCHEDULE.

(See Section 29.)

Form of Pleader or Mukhtár's Certificate.

Stamp

Pursuant to The Pleaders' Act, 1871, I hereby certify that A. B. Pleader [or Mukhtár] whose place [or places] of business is [or are] at hath this day delivered and left with me a declaration in writing signed by him, and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mukhtár], together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at [or as the case may be], and that he is entitled to practise as a Pleader [or Mukhtár] in the District Courts, Subordinate Courts, and Small Cause Courts [or the Sadr Amíns' Courts, or the Munsifs'

Courts, as the case may be], and to practise as a Revenue Agent before the Board of Revenue of [or as the case may be] for the period of one year from the date hereof. Given under my hand this day of 187 .

C. D.

Registrar [or as the case may be] of the High Court of Judicature at [or as the case may be.]

Form of Revenue Agent's Certificate.

Stamp

Pursuant to The Pleaders' Act, 1871, I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of [or as the case may be], and in any Office subordinate thereto, for the period of one year from the date thereof. Given under my hand this day of 187 .

C. D.

Secretary to the Board of Revenue of [or as the case may be.]

## THIRD SCHEDULE.

(See Section 30.)

Stamps on Certificates.

I.—On a certificate authorizing the holder to practise as a Pleader:—

- |  |                     |
|--|---------------------|
| (a.) In the High Court and any subordinate Court.  | Fifty rupees.       |
| (b.) In the District Courts, Courts subordinate thereto and Small Cause Courts ...   | Twenty-five rupees. |
| (c.) In the Sadr Amíns' and Munsifs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs ... | Fifteen rupees.     |
| (d.) In the Munsifs' Courts or any Court of first instance not hereinbefore mentioned ...  | Five rupees.        |

II.—On a certificate authorizing the holder to practise as a Mukhtár:—

- |  |                     |
|--|---------------------|
| (a.) In the High Court and any subordinate Court.                                  | Twenty-five rupees. |
| (b.) In the District Courts, Courts subordinate thereto and Small Cause Courts ... | Sixteen rupees.     |

- |   |               |
|---|---------------|
| (c.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sadr Amins' and Munsifs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars ... | Eight rupees. |
| (d.) In the Munsifs' Courts or any Court of first instance not hereinbefore mentioned ...   | Four rupees.  |

III.—On a certificate authorizing the holder to practise as a Revenue Agent :—

- |  |                 |
|--|-----------------|
| (a.) In the Board of Revenue or in any Office subordinate thereto ...                    | Fifteen rupees. |
| (b.) In the Office of a Commissioner or in any Office subordinate to a Commissioner. ... | Ten rupees.     |
| (c.) In the Office of a Collector or in any Office subordinate to a Collector. ...       | Five rupees.    |

#### STATEMENT OF OBJECTS AND REASONS.

This Bill has two primary objects, one, to consolidate the law relating to Pleaders, Mukhtars and Revenue Agents, the other, to amend that law so far as it relates to agreements between certain legal practitioners and their clients.

In Bengal, the North-Western Provinces, the Panjáb and Oudh, the law on the subject is contained in three Acts (XX of 1865, XXIX of 1865 and IX of 1866): in the Presidencies of Madras and Bombay it is contained in Acts I of 1846, XX of 1853, Madras Regulation XIV of 1816, and Bombay Regulation II of 1827, chapter VI; in the Panjáb, Act IV of 1866 (sections ten, eleven, twelve, forty-four and fifty-one) contains some special provisions as to Pleaders in the Chief Court and their fees; and in British Burma the Recorders' Courts Act XXI of 1863 (sections sixteen, seventeen and eighteen) contains similar provisions. The Central Provinces and all British Burma outside the local limits of the Recorders' jurisdiction appear to be devoid of any law on the subject.

The present Bill consolidates and extends to the whole of British India such of the provisions of Acts XX of 1865 and XXIX of 1865 as appear to be generally applicable to the country.

With regard to agreements for remuneration between clients and their legal advisers, Act XX of 1865, section thirty-nine, permits such agreements to be made, and declares that they shall not be enforced otherwise than by regular suit.

This provision, which has been held to place such agreements on the same footing as an ordinary contract between private persons, has, for obvious reasons, not worked satisfactorily. A flagrant instance of the evil of the present law is furnished by the recent case of *Nuthoo Lall v. Budree Pershad*, 1 Allahabad Reports 1; and though the High Court there held that it was not the duty of the lower Courts to decree (as they had done), on mere proof of the contract, the enforcement of an extortionate bargain between a pleader and his client, the legislature should not leave so important a rule to depend on the decision of a single High Court. The Bill repeals the section in question, and replaces it by a set of provisions modelled on the recent English Statute 33 & 34 Vic., Cap. 28 (*to amend the law relating to the remuneration of Attorneys and Solicitors*), sections four, six, seven, eight, nine, eleven, thirteen and fourteen.

Section thirty-three of the Bill declares that pleaders, &c., may make agreements as to their remuneration, but that the amount agreed on shall not be paid until the agreement has been examined and allowed by an officer of the High Court or of the District Court. The Court is empowered either to reduce the amount or to order the agreement to be cancelled. The agreement (section thirty-four) will exclude further claims in respect of the business therein referred to. Provisions relieving the pleader, &c., from liability for negligence will be void (section thirty-five). No suits are to be brought on such agreements, but on petition of either party the Court may enforce or set it aside (section thirty-six). The Bill then declares void (a) purchases by a pleader of his client's interest in future suits or in unsatisfied decrees, and (b) agreements by which the pleader stipulates for payment only in the event of success. Provision is made (section thirty-eight) for the case of the pleader's death or incapacity, and the client is empowered (section thirty-nine) to change his pleader notwithstanding such agreement.

The other novel provisions of the Bill are only two.

At the recommendation of the Government of Bengal, all Mukhtars are restored to the privilege of appearing, pleading and acting in Criminal Courts, which they formerly enjoyed under Act XX of 1865, and Mukhtars heretofore admitted and enrolled in Lower Bengal as Revenue Agents are empowered (section seven) to appear and act in suits in Munsifs' Courts under Bengal Act VIII of 1869 (*to amend the procedure in suits between landlord and tenant*).

Penalties are provided (section forty-five) for Advocates, Pleaders and Mukhtars removed or suspended by a High Court who practise after such removal or during such suspension.

J. F. STEPHEN.

The 2nd January 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.



The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th January 1871, and was referred to a Select Committee with instructions to make their report thereon in six weeks :—

No. 4 of 1871.

## THE ÁBKÁRÍ BILL, 1871.

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64. On Police neglecting to assist.
65. For maliciously giving false information.
66. For vexatious search or seizure.
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- Schedule,—(Acts repealed.)

**A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE ABKARI REVENUE IN NORTHERN INDIA.**

**WHEREAS** it is expedient to consolidate and amend the laws in force in Northern India and British Burma relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom: It is hereby enacted as follows:—

**Preamble.**

**I.—Preliminary.**

**Short title.**

1. This Act may be called "The Abkari Act, 1871."

**Local extent.**

It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg.

**Commencement of Act.**

It shall come into force in the North-Western Provinces, the Panjáb, Oudh and the Central Provinces on the passing thereof, and in British Burma and Coorg on the expiry of six months from such passing.

**Repeal of Acts.**

2. The Acts mentioned in the schedule hereto annexed are repealed.

**Interpretation-clause.**

3. In this Act, "Chief Revenue Authority" means,—  
in the territories subject to the Lieutenant-Governor of the North-Western Provinces, the Board of Revenue,  
in the Panjáb and Oudh, the Financial Commissioner, and  
in the Central Provinces, British Burma and Coorg, the Chief Commissioner.

"Collector" includes any Revenue Officer in independent charge of a District.

"Magistrate" means any Magistrate exercising powers not less than those of a Subordinate Magistrate of the first class.

"Country-spirit" means any spirit made by the Native process of distillation.

"Intoxicating drugs" includes ganja, bhang, charas, opium and every preparation and admixture of the same.

4. Nothing herein contained affects Act No. XVI of 1863 (to make special provision for the levy of the excise duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.)

**II.—Manufacture of Spirits.**

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the

Collector of the District in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue Authority, with the sanction of Government, may from time to time make rules relative to—

- (a) the granting of licenses under section five;
- (b) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;
- (c) the size and description of the stills,
- (d) the passing and storing of the spirits,
- (e) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;
- (f) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery.

Collectors may establish distilleries for country spirits.

7. The Collector, with the sanction of the Chief Revenue Authority, may—

- (a) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process;
- (b) from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery; and
- (c) discontinue any distillery so established.

Chief Revenue Authority may prescribe rules for distilleries.

8. The Chief Revenue Authority may from time to time make rules relative to

- (a) the management of distilleries established under section seven,
- (b) the conditions on which spirits may be manufactured in the said distilleries, and
- (c) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Construction or working of breweries and manufacture of malt liquor, without license, prohibited.

9. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate such rules.

**III.—Sale of Spirits.**

10. Spirituous liquors passed from distilleries and fermented liquors not to be sold without license. English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.



11. Persons taking out licenses for the whole-  
 Fee for wholesale li- sale vend of spirituous and  
 cense. fermented liquors as aforesaid  
 shall pay, for every such license, the sum of six-  
 teen rupees.

The license shall be current only during the  
 official year, and in the district in which it is  
 granted.

But travelling merchants may obtain, under  
 such rules and restrictions as the Chief Revenue  
 Authority from time to time prescribes, a general  
 license, authorizing them to sell by wholesale, in  
 any district which they may visit in the course of  
 their travel, without taking out a fresh license for  
 that district.

12. Persons taking out licenses for the retail  
 Fee for retail license. sale of spirituous and fer-  
 mented liquors as aforesaid  
 shall pay for every such license such fee or tax as  
 the Chief Revenue Authority fixes, and such fee or  
 tax shall be payable at such periods as the said  
 Authority directs.

Provided that such fee or tax be at such rate for  
 each license as does not exceed the total sum of  
 one hundred rupees for the whole year.

Any sale of spirituous or fermented liquors as  
 What to be held a re. aforesaid, in less quantity  
 tail sale. than two imperial gallons or  
 one dozen of quart bottles, shall be held to be a  
 retail sale.

13. No person shall manufacture spirits after the  
 Country spirits, and native process, or sell such  
 drugs not to be sold spirits, or tári or pachwái,  
 without license. or any intoxicating drug,  
 except under license from the Collector.

14. All the provisions relating to the sale or  
 Tári to be held to be possession of fermented  
 a fermented liquor. liquors contained in the fol-  
 lowing sections apply to the sale or possession of  
 tári, whether in a fermented state or otherwise;  
 and all tári, both fresh and fermented, is included  
 in the expression "fermented liquors" as used in  
 the following sections.

15. Provided that the Local Government may  
 Proviso. suspend the operation of all  
 the provisions relating to tári,  
 contained in this Act, with respect to any district  
 in which the consumption of tári in a fermented  
 state is inconsiderable; and thereupon tári may be  
 possessed and sold without license in such district,  
 notwithstanding anything contained in this Act.

16. Opium shall be supplied to licensed ven-  
 Supply of opium to dors from the Government  
 licensed vendors. stores in such manner and  
 at such prices as the Chief  
 Revenue Authority from time to time directs: and  
 no other description of opium shall be sold by such  
 vendors.

The Local Government may, from time to time,  
 Proviso. by order, exempt any district  
 from the operation of this  
 section.

17. Except for the supply of licensed vendors,  
 Sale of more than country spirits, tári, and  
 specified quantities of pachwái, and intoxicating  
 country spirits, &c., pro- drugs shall not be sold in  
 hibited. larger quantities than are  
 hereunder specified—  
 country spirits, one ser;

tári or pachwái, four sers;

ganja or bhang, or any preparation or admix-  
 ture thereof, one quarter of a ser;

charas or opium, or any preparation or admix-  
 ture thereof, five tolas weight;

And the sale of any such quantity as is herein  
 allowed shall be deemed to be a retail sale within  
 the meaning of this Act.

#### IV.—Duties.

18. A duty shall be levied on spirits manu-  
 Rate of duty to be factured at distilleries work-  
 levied on English spirits. ed according to the English  
 method, at the rate of three  
 rupees the imperial gallon of the strength of  
 London-proof, to be augmented or reduced in pro-  
 portion to the strength of the spirit.

No spirit shall be removed from any such dis-  
 tillery, or the warehouses connected therewith, upon  
 which the aforesaid duty has not been paid, or for  
 the duty chargeable on which a bond has not been  
 executed as hereinafter provided.

For all spirits removed upon payment of duty  
 or under bond, passes shall be issued by the  
 Collector, which shall specify

- (a) the quantity and strength of the spirit,
- (b) the place of its destination,
- (c) the person to whom it is consigned, and
- (d) whether the duty has been paid or secured by  
 bond.

19. Spirituous liquors manufactured at any  
 place in India beyond the  
 Spirits from foreign limits of British India, shall,  
 territory subject to duty. on passing such limits sub-  
 ject to this Act, be charged with the duty pre-  
 scribed for proof-spirits in section eighteen:

and any person found in possession of any such  
 liquors, without a pass from the Collector certifi-  
 ing the payment of such duty, shall forfeit for  
 every such offence a sum not exceeding two  
 hundred Rupees; and the liquors, together with  
 the vessels containing the same, and the animals  
 and conveyances used in carrying them, shall be  
 liable to confiscation.

20. Whenever a license for the retail sale of  
 Duty on the retail sale country spirits, tári, or pach-  
 of country spirits, &c. wái, or intoxicating drugs,  
 is granted under this Act,  
 the Collector may demand, in consideration of the  
 privilege granted, such tax or duty, or a tax or  
 duty adjusted on such principles, as may from  
 time to time be fixed by the Chief Revenue  
 Authority.

Such tax or duty shall be specified in the  
 license, and shall be payable at such periods as the  
 said Authority may direct.

The Collector may grant special licenses for  
 the sale of unfermented tári only, at those periods  
 of the year when the fresh juice is in request: fees  
 may be demanded for such special licenses at a rate  
 not exceeding one rupee for each license; and the  
 vendors shall not be subject to any other tax or  
 duty in respect of such sale.

#### V.—Farm of Duties.

21. The Collector may, with the sanction of the  
 Chief Revenue Authority, let  
 Power to farm out in farm, for any period not  
 duties. exceeding five years, the

duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any division of a district.

**22. The Chief Revenue Authority may prescribe rules—**

Chief Revenue Authority to regulate invitation and acceptance of tenders for such farms.

scribe rules—

(a) for the invitation and acceptance of tenders for such farms,

(b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(c) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

**23. When the duties leviable on any of the**

Farmer to make arrangements with local manufacturers and vendors.

articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

**24. Every such farmer shall file in the Collect-**

List of licenses granted by farmer to be filed.

or's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

The Collector, with the sanction of the said

Restrictions with respect to grant of licenses.

Chief Revenue Authority, may, before entering into engagements for any such

farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

**25. The Collector may, with the sanction of**

Lease may be cancelled.

the Chief Revenue Authority cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer.

If a lease be cancelled for any cause other than

Compensation to farmers in certain cases.

a breach on the part of the farmer of the conditions of the lease, or if any reservation

or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

**26. Every farmer of Abkari revenue may**

Recovery of arrears of tax or duty by farmers.

use the same means and processes for the recovery of any arrear of tax or duty due

to him from any authorized vendor, as may be lawfully used by zamindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

**VI.—Licenses.**

**27. Every person taking out a license for the**

Licensed retail vendors of country spirits to furnish security.

manufacture of country spirits or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall ex-

ecute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

**28. Unless otherwise especially authorized by**

Duration and renewal of license.

the Chief Revenue Authority, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

**29. The Chief Revenue Authority may regulate**

Chief Revenue Authority to regulate form of license.

the form and conditions of all licenses granted under this Act.

**30. The Collector may recall or cancel any**

Power to recall license.

license granted under this Act, if the tax or duty therein specified be not duly

paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

**31. Any licensed retail vendor may surrender**

Surrender of license.

his license on giving one month's previous notice to

the Collector, and paying such fine not exceeding the amount of the license fees for six months as the Collector may adjudge.

If the Collector is satisfied that there is a sufficient reason for resigning a license he may remit the fine so prescribed.

**VII.—Powers of Officers.**

**32. The collection of the revenue arising from**

Collectors of Land Revenue to have charge of the Abkari Revenue.

the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating

drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

But the Collector with the previous sanction of the Chief Revenue Authority may delegate all or any of the powers conferred upon him by this Act to any subordinate officer in any district or place; and such officer shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of Land Revenue; and such powers and authority shall cease to be exercised in such district or place by the Collector during the continuance of such appointment.

**33.** Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers, and other officers, for the collection of the Ábkári Revenue and for the prevention of smuggling, and the officer so appointed shall, in addition to their ordinary designations, be styled Ábkári Officers.

**34.** In districts where there are tahsildárs and other local officers for the collection of the land revenue, the office of Ábkári dárogha may be united with that of tahsildár, or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be Ábkári Officers within the meaning of this Act.

**35.** The Chief Revenue Authority may regulate the mode in which tári shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganja, bhang, or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

**36.** The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of Ábkári revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

**37.** Any Ábkári officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

**38.** Any Ábkári officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

**39.** Any Ábkári officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

and may seize such still with the materials for working it, and all such liquors and drugs.

**40.** Whenever any Ábkári officer above the rank of a jamadár of peons, has reason to believe, from information given by any person, which information shall be taken down in writing,

that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Act, are kept or concealed in any house, boat, or other place,

such officer may, between sunrise and sunset, (but always in the presence of an officer of Police not being under the grade of a jamadár) enter into any such house, boat, or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

**41.** The powers of seizure, search, and arrest, given to Ábkári officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest

of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be Ábkári officers within the meaning of this Act.

**42.** Whenever an Ábkári officer arrests any person,

or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat, or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector,

shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

**43.** The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or



to have in his possession any such liquors or drugs liable to confiscation under this Act.

**44.** The Collector may issue his warrant for the search of any house, boat, or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section forty.

**45.** Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

**46.** All Police officers are required to aid the Abkárí officers in the due execution of this Act, upon notice given or request made by such officers.

#### VIII.—Penalties.

**47.** Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand Rupees;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

**48.** Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section five, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

**49.** Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;

and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the

proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

**50.** Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;

and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

**51.** Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

**52.** Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any Abkárí officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

**53.** Every licensed retail vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail sale, shall for every such offence be punished with fine not exceeding two hundred rupees.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

**54.** Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

**55.** Whoever conveys or attempts to convey any country spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

**56.** Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid,

otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

**57.** Every person other than a licensed manufacturer who manufactures any country spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Nothing in this section or in section ten applies to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

**58.** Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country spirits, or tãrî, or pachwãî, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section seventeen,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other Officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Provided, that nothing in this section extends to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

**59.** The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tãrî, the produce of the date tree, when supplied or used for the manufacture of gûr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of ganja or bhang by the cultivators of the plants which produce those drugs respectively.

But such cultivators are prohibited from selling any ganja or bhang to any one other than a licensed vendor, or a person duly authorized to purchase by pass or license from the Collector.

Every such cultivator acting in breach of this prohibition, shall for every such offence be punished with fine not exceeding five hundred rupees.

**60.** Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight,

shall for every such offence be punished with fine not exceeding five hundred Rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight;

and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

**61.** Nothing in section sixty applies to the persons and circumstances hereinafter specified, namely:—

(a) Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy, and the delivery of the produce to the opium agent.

(b) Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, the produce of such States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter.

(c) Dealers in horses travelling with strings of horses from beyond the south-west frontier of the territory under the government of the Lieutenant-Governor of the North-Western Provinces, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

If opium be found in the possession of any such traveller, visitant, or dealer in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

**62.** Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or, who, except in districts exempted from the operation of section sixteen, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

**63.** Every proprietor, farmer, tabsîldâr, gum-âshta, or other manager of land, who authorizes or connives at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

**64.** Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any *dárogha* or other officer in charge of a Police station, who, on application made by an *Abkárí* officer under section forty, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a *jamadár*, shall for such offence be punished with fine not exceeding five hundred rupees.

**65.** Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

The whole or any part of any fine levied under this section may be paid to the person aggrieved.

**66.** Any *Abkárí* officer who without reasonable ground of suspicion, searches or causes to be searched any house, boat, or other place, or vexatiously and unnecessarily seizes the goods or chattels of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act, or vexatiously and unnecessarily arrests any person, or commits any other excess not required for the execution of his duty, shall for such offence be punished with fine not exceeding five hundred rupees.

Such fine or any portion thereof, may be paid to the person aggrieved.

**67.** Any *Abkárí* officer neglecting to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall for such offence be punished with fine not exceeding two hundred rupees.

**68.** Any *Abkárí* officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of his license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the *Abkárí* Revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of

such liquors or drugs as aforesaid in any place subject to his control,

shall for such offence be punished with fine not exceeding five hundred rupees.

**69.** All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any *Abkárí* officer.

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-four, sixty-four, sixty-five, sixty-six, sixty-seven or sixty-eight.

**70.** In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or *Abkárí* officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate, and for appeal against orders passed by a Magistrate, shall apply to trials under this Act.

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

**71.** Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

**72.** Every person imprisoned for an offence under section fifty-four, sixty-four, sixty-five, sixty-six, sixty-seven, or sixty-eight, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

**73.** All things confiscated under this Act, except opium, shall be disposed of by the Collector by public sale.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

**74.** One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxi-



eating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser, shall be given to the informer.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of *Abkari* officers shall receive rewards, and what classes shall have no title to share therein.

75. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

#### IX.—Military Cantonments.

76. Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the Commanding Officer:

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

77. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other Officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall

report the arrest or search to such Commanding Officer with as little delay as possible.

#### X.—Miscellaneous.

78. A drawback of the duty paid as aforesaid on spirits manufactured after the English method, and exported by sea, to Aden or any port not situate in British India shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

79. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

80. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

81. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

82. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium;

and the officers of the Opium Department shall exercise the powers conferred by this Act on *Abkari* officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and in respect to such seizures and arrests, shall be deemed to be *Abkari* officers within the meaning of this Act.

## SCHEDULE.

| NUMBER AND YEAR. | TITLE OF ACT.   |
|------------------|---|
| XXI of 1856      | An Act to consolidate and amend the law relating to the Abkarree Revenue in the Presidency of Fort William in Bengal.   |
| XXIII of 1860    | An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkarree Revenue in the Presidency of Fort William in Bengal).  |
| X of 1864        | An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkarree Revenue in the Presidency of Fort William in Bengal).  |
| XXVIII of 1864   | An Act to provide for the extension of Act XXI of 1856 (to consolidate and amend the law relating to the Abkarree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant Governor of the Punjab. |
| XXIII of 1868    | An Act to give validity to certain Abkari Rules in British Burma.   |

## STATEMENT OF OBJECTS AND REASONS.

The law relating to the Abkari revenue in Northern India is now contained in four Acts, XXI of 1856, XXIII of 1860, X of 1864 and XXVIII of 1864. In British Burma the law is in the form of executive rules to which Act XXIII of 1868 gave a temporary validity. The primary object of this Bill is to substitute one enactment for all these Acts and Rules.

The law has been rearranged, and the wording here and there improved; but no change has been made in its substance otherwise than by the omission of a few sections dealing with matters sufficiently provided for by the Penal Code (XLV of 1860) and the Sea Customs Act (VI of 1863).

The Bill does not extend to the Lower Provinces of Bengal; and the power of the local legislature to deal from time to time with the details of the Abkari law will thus remain unimpaired.

J. F. D. INGLIS.

2nd January 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.



# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 18, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 19.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 5 or 1871.

*A Bill for the further amendment of the Consolidated Customs Act.*

For the further amendment of the Consolidated Customs Act (No. VI of 1863); It is hereby enacted as follows :—

1. Section twenty-three of the said Act Amendment of Act VI shall be read as if after of 1863, section 23. the word "exportation" the following words were inserted (that is to say) "by sea or by land, or both by sea and by land."

2. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

3. For section one hundred and thirty-seven of the said Act the following section shall be substituted :—

"CXXXVII. Upon the re-export by Sea to any Foreign Port or place, of any goods, except Salt or Opium, capable of being easily identified, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, three-fourths of such Duty shall be repaid as Drawback, and one-fourth shall be retained as reserved Duty :

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the Export Manifest of the vessel as ship's stores.

Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation.

But the said Chief Customs Authority may in any such case direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles."



4. This Act shall be read with and taken as Act to be read with part of the Consolidated Customs Act. Act VI of 1863.

### SCHEDULE.

#### FORM OF BONDED WAREHOUSE WARRANT.

(See section 2.)

I do hereby certify that have deposited in the Warehouse of the undermentioned goods which goods, the engage on demand, after payment of rent and incidental charges and Government Dues or Customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

#### STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make three amendments in the Consolidated Customs Act VI of 1863.

Section 23 of that Act authorises the Government of India to prohibit the exportation or importation of any particular class of goods. To prevent a doubt which has been raised as to the extent of the power thus conferred, the Bill introduces words 'by sea or by land, or both by sea and by land.'

A new section provides that, when goods are warehoused, a warrant shall be delivered to the person lodging the goods, and that such warrant shall be transferable by endorsement. This is now the law as regards the Bengal Bonded Warehouse. The change has been suggested by the Government of Bombay.

Another section, intended to replace section 137 of Act VI of 1863, provides that the goods on which drawback was allowed shall be easily identifiable; that the Governor General in Council may determine what such goods shall be deemed to be, and that three-fourths (instead of seven-eighths) shall be the amount of drawback, (one-fourth instead of one-fifth) being retained as reserved duty.

R. TEMPLE.

The 8th February 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. 6 of 1871.

*A Bill to relieve from Incumbrances the Estates of Taluqdárs in Broach.*

WHEREAS the majority of the Taluqdárs in Broach are in debt, and their immovable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

#### I.—PRELIMINARY.

Short title.

1. This Act may be called "The Broach Taluqdárs Relief Act."

#### Interpretation-clause.

2. In this Act—  
'taluqdár' means a person mentioned in the schedule hereto annexed, and

'heir' means the person for the time being entitled as heir to a taluqdár.

#### II.—VESTING ORDER.

3. Whenever, within twelve months after the passing of this Act, any taluqdár,

Power to vest management of taluqdár's property in an officer appointed by Local Government. or (when such taluqdár is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

applies in writing to the Governor of Bombay in Council, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Governor of Bombay in Council, may by order published in the Bombay Government Gazette, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

Effect of order. 4. On such publication, the following consequences shall ensue:—

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

secondly, so long as such management continues, Taluqdár freed from the taluqdár and his heir arrest, shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

thirdly, so long as such management continues, Cessation of his power to alienate. (a) the taluqdár and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom;

and (b) such property shall be exempt from Immoveable property attachment or sale under freed from attachment. such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government.

## III.—DUTIES OF MANAGER.

5. The Manager shall, during his management of the said property, receive rents and profits, and recover all rents and profits due, in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

*first*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

*secondly*, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the taluqdár, his heir and their families:

*thirdly*, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Governor of Bombay in Council,

and the residue shall be applied in discharge of the costs of management, in settlement of such debts and liabilities of the taluqdár and his heir and their immovable property, as may be established under the provisions hereinafter contained.

## IV.—SETTLEMENT OF DEBTS.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the Bombay Government Gazette a notice in English and Gujaráthí, calling upon all persons having claims against the taluqdár or his immovable property to notify the same in writing to such Manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Mámlatdárs' Kachahris in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim; or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with

which his immovable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

10. An appeal against any refusal, admission or determination under sections seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Until such approval is given, the Governor of Bombay in Council may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

the taluqdár or his heir shall be restored to the possession and enjoyment of his immovable property, or of such part thereof as has not been sold by the Manager under the power contained in section nineteen, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in section three (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by section eight, shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

#### V.—POWERS OF MANAGER.

**13.** The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

**14.** For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

**15.** The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

**16.** Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

**17.** The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdār would have had for such purpose if this Act had not been passed.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

**18.** Subject to the rules made under section twenty, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

**19.** The Manager, with the previous assent of the Governor of Bombay in Council, shall have power to raise any money which may be required for the

settlement of the debts and liabilities (other than as aforesaid) to which the taluqdār is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdār and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

#### VI.—MISCELLANEOUS.

**20.** The Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when published in the Bombay Government Gazette, shall have the force of law.

**21.** Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

**22.** Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

**23.** No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act.

**24.** No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

**25.** Nothing in this Act precludes the Courts of Brench, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.



26. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 (*for the amelioration of the condition of Taluqdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the expression 'Civil Court,' wherever it occurs in the said Act, shall be deemed to include and to have included the said High Court.

## SCHEDULE.

*(See Section 2.)*

The Thákur of Ahmód.  
The Thákur of Saród.  
The Thákur of Kerwára.  
The Thákur of Dehej.  
The Thákur of Janiádra.

## STATEMENT OF OBJECTS AND REASONS.

Five out of the six Taluqdárs of Branch are heavily indebted, and the object of this Bill, which has been prepared at the desire of the Bombay Government, is to provide means for relieving them from their liabilities. The Bill is in substance the same as the measure passed in 1862 by the Bombay Legislature for the relief of the Ahmedabad Taluqdárs. In form it closely resembles the Oudh Taluqdárs' Act (XXIV of 1870). The opportunity has been taken of confirming the Ahmedábád Act so far as it purports to affect the High Court of Bombay.

F. S. CHAPMAN.

*The 7th February 1871.*

WHITLEY STOKES,  
*Secy. to the Govt. of India.*



# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, FEBRUARY 25, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 19.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. 5 of 1871.

*A Bill for the further amendment of the Consolidated Customs Act.*

For the further amendment of the Consolidated Customs Act (No. VI of 1863); It is hereby enacted as follows:—

1. Section twenty-three of the said Act Amendment of Act VI shall be read as if after of 1863, section 23. the word "exportation" the following words were inserted (that is to say) "by sea or by land, or both by sea and by land."

2. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

3. For section one hundred and thirty-seven of the said Act the following section shall be substituted:—

"CXXXVII. Upon the re-export by Sea to any Foreign Port or place, of any goods, except Salt or Opium, capable of being easily identified, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, three-fourths of such Duty shall be repaid as Drawback, and one-fourth shall be retained as reserved Duty:

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the Export Manifest of the vessel as ship's stores.

Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation.

But the said Chief Customs Authority may in any such case direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles."

4. This Act shall be read with and taken as Act to be read with part of the Consolidated Customs Act. Act VI of 1863.

### SCHEDULE.

#### FORM OF BONDED WAREHOUSE WARRANT.

(See section 2.)

I do hereby certify that have deposited in the Warehouse of the undermentioned goods which goods, the engage on demand, after payment of rent and incidental charges and Government Dues or Customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

#### STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make three amendments in the Consolidated Customs Act VI of 1863.

Section 23 of that Act authorises the Government of India to prohibit the exportation or importation of any particular class of goods. To prevent a doubt which has been raised as to the extent of the power thus conferred, the Bill introduces words 'by sea or by land, or both by sea and by land.'

A new section provides that, when goods are warehoused, a warrant shall be delivered to the person lodging the goods, and that such warrant shall be transferable by endorsement. This is now the law as regards the Bengal Bonded Warehouse. The change has been suggested by the Government of Bombay.

Another section, intended to replace section 137 of Act VI of 1863, provides that the goods on which drawback was allowed shall be easily identifiable; that the Governor General in Council may determine what such goods shall be deemed to be, and that three-fourths (instead of seven-eighths) shall be the amount of drawback, (one-fourth instead of one-fifth) being retained as reserved duty.

R. TEMPLE.

The 8th February 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month:—

No. 6 OF 1871.

*A Bill to relieve from Incumbrances the Estates of Taluqdars in Broach.*

WHEREAS the majority of the Taluqdars in Broach are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

#### I.—PRELIMINARY.

Short title.

1. This Act may be called "The Broach Taluqdars Relief Act."

Interpretation-clause.

2. In this Act—

'taluqdár' means a person mentioned in the schedule hereto annexed, and

'heir' means the person for the time being entitled as heir to a taluqdár.

#### II.—VESTING ORDER.

3. Whenever, within twelve months after the passing of this Act, any

Power to vest management of taluqdár's property in an officer appointed by Local Government.

taluqdár, or (when such taluqdár is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

applies in writing to the Governor of Bombay in Council, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Governor of Bombay in Council, may by order published in the Bombay Government Gazette, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

Effect of order.

4. On such publication, the following consequences shall ensue:—

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

secondly, so long as such management continues, Taluqdár freed from arrest, the taluqdár and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

thirdly, so long as such management continues, Cessation of his power to alienate. (a) the taluqdár and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom;

and (b) such property shall be exempt from Immoveable property attachment or sale under freed from attachment. such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government.



## III.—DUTIES OF MANAGER.

5. The Manager shall, during his management of the said property, receive rents and profits, and recover all rents and profits due, in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

secondly, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the taluqdár and his heir, and their families:

thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Governor of Bombay in Council,

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

## IV.—SETTLEMENT OF DEBTS.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the Bombay Government Gazette a notice in English and Gujaráthi, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Mámlatdárs' Kachahris in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with

which his immoveable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

10. An appeal against any refusal, admission or determination under sections seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Until such approval is given, the Governor of Bombay in Council may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

the taluqdár or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section nineteen, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in section three (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by section eight, shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

#### V.—POWERS OF MANAGER.

**13.** The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to call for further particulars.

**14.** For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power to summon witnesses and compel production of documents.

**15.** The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Power to administer oaths.

**16.** Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Statements of persons examined, to be evidence.

**17.** The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdār would have had for such purpose if this Act had not been passed.

Manager to have powers of a taluqdār.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to remove mortgagee in possession.

**18.** Subject to the rules made under section twenty, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to lease.

**19.** The Manager, with the previous assent of the Governor of Bombay in Council, shall have power to raise any money which may be required for the

Power to raise money by mortgage or sale.

settlement of the debts and liabilities (other than as aforesaid) to which the taluqdār is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdār and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and, upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Manager's receipts.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

#### VI.—MISCELLANEOUS.

**20.** The Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Power to make rules.

Such rules, when published in the Bombay Government Gazette, shall have the force of law.

**21.** Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Power to appoint new Managers.

Every such new Manager shall have the same powers as if he had been originally appointed.

**22.** Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers to be public servants.

**23.** No suit or other proceeding shall be maintained against any person in respect of anything done by him *bond fide* pursuant to this Act.

Bar of suits.

**24.** No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

Petitions, &c., under Act exempt from Court fees.

**25.** Nothing in this Act precludes the Courts of Broach, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Saving of jurisdiction of Courts in Broach in respect of certain suits.

26. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 (*for the amelioration of the condition of Talookdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the expression 'Civil Court,' wherever it occurs in the said Act, shall be deemed to include and to have included the said High Court.

## SCHEDULE.

(See Section 2.)

The Thákur of Ahmód.  
The Thákur of Saród.  
The Thákur of Kerwára.  
The Thákur of Dehej.  
The Thákur of Janiádra.

## STATEMENT OF OBJECTS AND REASONS.

Five out of the six Taluqdárs of Broach are heavily indebted, and the object of this Bill, which has been prepared at the desire of the Bombay Government, is to provide means for relieving them from their liabilities. The Bill is in substance the same as the measure passed in 1862 by the Bombay Legislature for the relief of the Ahmedabad Taluqdárs. In form it closely resembles the Oudh Taluqdárs' Act (XXIV of 1870). The opportunity has been taken of confirming the Ahmedábád Act so far as it purports to affect the High Court of Bombay.

F. S. CHAPMAN.

The 7th February 1871.

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## PART V.

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GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February 1871, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 5 of 1871.

*A Bill for the further amendment of the Consolidated Customs Act.*

For the further amendment of the Consolidated Customs Act (No. VI of 1868); It is hereby enacted as follows :—

1. Section twenty-three of the said Act shall be read as if after the word "exportation" the following words were inserted (that is to say) "by sea or by land, or both by sea and by land."

2. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

3. For section one hundred and thirty-seven of the said Act the following section shall be substituted :—

"CXXXVII. Upon the re-export by Sea to any Foreign Port or place, of any goods, except Salt or Opium, capable of being easily identified, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, three-fourths of such Duty shall be repaid as Drawback, and one-fourth shall be retained as reserved Duty :

Provided that, in every such case, the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that

Conditions for grant of drawback. the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place, on sufficient cause for such extension being shown, in any case determines.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what goods shall for the purpose of this section be deemed to be capable of being easily identified.

No repayment shall be made under this section on account of any article entered in the Export Manifest of the vessel as ship's stores.

Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation.

But the said Chief Customs Authority may in any such case direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles."

4. This Act shall be read with and taken as  
 Act to be read with part of the Consolidated  
 Act VI of 1863. Customs Act.

### SCHEDULE.

#### FORM OF BONDED WAREHOUSE WARRANT.

(See section 2.)

I do hereby certify that have  
 deposited in the Warehouse of the  
 undermentioned goods which goods,  
 the engage on demand, after pay-  
 ment of rent and incidental charges and Govern-  
 ment Dues or Customs chargeable thereon, to deli-  
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The object of this Bill is to make three amend-  
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WHEREAS the majority of the Taluqdars in  
 Broach are in debt, and their  
 Preamble. immovable property is sub-  
 ject to mortgages, charges and liens; and whereas  
 it is expedient to provide for their relief in manner  
 hereinafter appearing; It is hereby enacted as  
 follows:—

#### I.—PRELIMINARY.

Short title.

1. This Act may be called  
 "The Broach Taluqdars'  
 Relief Act."

Interpretation-clause.

2. In this Act—

'taluqdár' means a person mentioned in the  
 schedule hereto annexed, and

'heir' means the person for the time being en-  
 titled as heir to a taluqdár.

#### II.—VESTING ORDER.

3. Whenever, within twelve months after the  
 passing of this Act, any  
 taluqdár,

Power to vest manage-  
 ment of taluqdár's pro-  
 perty in an officer ap-  
 pointed by Local Gov-  
 ernment.

or (when such taluqdár is  
 an infant, or of unsound  
 mind, or an idiot) his guar-  
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or the person who would be heir to such taluqdár  
 if he died intestate,

or (when such person is an infant, or of unsound  
 mind, or an idiot) his guardian, committee, or  
 other legal curator,

applies in writing to the Governor of Bombay  
 in Council, stating that the taluqdár is subject to,  
 or that his immovable property is charged with,  
 debts or liabilities other than debts due, or liabili-  
 ties incurred, to Government, and requesting that  
 the provisions of this Act be applied to his case,

the Governor of Bombay in Council, may by  
 order published in the Bombay Government (Gazette),  
 appoint an officer (hereinafter called the Manager),  
 and vest in him the management of the immove-  
 able property of or to which the taluqdár is then  
 possessed or entitled in his own right, or which he  
 is entitled to redeem, or which may be acquired by  
 or devolve on the taluqdár or his heir during the  
 continuance of such management.

Effect of order.

4. On such publication,  
 the following consequences  
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 Bar of suits against taluqdár. pending in any Civil Court  
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 Immovable property attachment or sale under  
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## III.—DUTIES OF MANAGER.

5. The Manager shall, during his management of the said property, receive rents and profits, and recover all rents and profits due, in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

*first*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

*secondly*, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the taluqdár, his heir and their families:

*thirdly*, the costs of such repairs and improvements, as appear necessary to the Manager and are approved by the Governor of Bombay in Council,

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## IV.—SETTLEMENT OF DEBTS.

6. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the Bombay Government Gazette a notice in English and Gujaráthí, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Mámlatdárs' Kachahris in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

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If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

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8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with

which his immoveable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

9. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

10. An appeal against any refusal, admission or determination under sections seven, eight or nine shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

11. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Until such approval is given, the Governor of Bombay in Council may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

12. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in section three, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

the taluqdár or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in section nineteen, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in section three (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by section eight, shall be revived, and any mortgagee dispossessed under section seventeen shall be reinstated unless his claim under the mortgage has been satisfied;



and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section three shall be excluded.

#### V.—POWERS OF MANAGER.

**13.** The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

**14.** For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

**15.** The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

**16.** Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

**17.** The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdār would have had for such purpose if this Act had not been passed.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

**18.** Subject to the rules made under section twenty, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

**19.** The Manager, with the previous assent of the Governor of Bombay in Council, shall have power to raise any money which may be required for the

settlement of the debts and liabilities (other than as aforesaid) to which the taluqdār is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdār and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section five, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section three.

#### VI.—MISCELLANEOUS.

**20.** The Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when published in the Bombay Government Gazette, shall have the force of law.

**21.** Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

**22.** Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

**23.** No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

**24.** No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees Act, 1870.

**25.** Nothing in this Act precludes the Courts of Brouch, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

26. And whereas doubts have been raised as to the validity of Bombay Amendment of Bom- to the validity of Bombay bay Act VI of 1862. Act No. VI of 1862 (*for the amelioration of the condition of Talookdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the expression 'Civil Court,' wherever it occurs in the said Act, shall be deemed to include and to have included the said High Court.

## SCHEDULE.

(See Section 2.)

The Thákur of Ahmód.  
The Thákur of Saród.  
The Thákur of Kerwára.  
The Thákur of Dehej.  
The Thákur of Janiádra.

## STATEMENT OF OBJECTS AND REASONS.

Five out of the six Taluqdárs of Broach are heavily indebted, and the object of this Bill, which has been prepared at the desire of the Bombay Government, is to provide means for relieving them from their liabilities. The Bill is in substance the same as the measure passed in 1862 by the Bombay Legislature for the relief of the Ahmedabad Taluqdárs. In form it closely resembles the Oudh Taluqdárs' Act (XXIV of 1870). The opportunity has been taken of confirming the Ahmedabad Act so far as it purports to affect the High Court of Bombay.

F. S. CHAPMAN.

The 7th February 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd March 1871, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 7 of 1871.

*A Bill to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue.*

For the purpose of consolidating and amending the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

## I.—Preliminary.

1. This Act may be called 'The Pensions' Act, 1871':  
It extends to the whole of British India;  
And it shall come into force at the expiration of one month from the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

But all rules in regard to the payment of pensions and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent herewith.

## II.—Rights to Pensions.

3. No Civil Court shall take cognizance of suits to enforce claims to any pensions, or grants of money, or assignments of land-revenue, conferred or made by the British or any former Government.

4. Nothing in section three applies to pensions heretofore granted by Government, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

5. All persons claiming pensions or grants by Government of money or land-revenue shall prefer their claims to the Collector of the District, or Deputy Commissioner, or other officer authorized in this behalf by the Local Government, and such officer shall dispose of such claims in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

## III.—Mode of Payment.

6. All pensions or grants by Government of money or land-revenue shall be paid by the Collector, or the Deputy Commissioner or other authorized officer, subject to such rules as may from time to time be prescribed by the Chief Controlling Revenue Authority.

7. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grants by Government of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

8. On the application of any person entitled to receive a pension, or grants by Government of money or land-revenue, the place of payment may, if the Chief Controlling Authority thinks fit, be altered.

## IV.—Miscellaneous.

9. The reduced pay or pension, however called, of any invalid officer, soldier, sailor or retainer of the army or navy, in the military or naval service of Her Majesty or of the East India Company,

and also any monthly or yearly pensions, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Local Government,

and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively,

and also all money due or to become due on account of any such pension or allowance,

shall be exempt from seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

**10. All assignments, agreements, orders, sales**

Assignments, &c., in anticipation of such pensions, to be void.

and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section nine, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

**11. Whoever proves to the satisfaction of the**

Reward to informers.

Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

**12. The Chief Controlling Revenue Authority**

Power to make rules.

may, with the consent of the Local Government, from time to time make rules consistent with this Act respecting all or any of the following matters :—

- (1) the place and times and the person at which and to whom any pension shall be paid,
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records,
- (5) correction of such records,
- (6) delivery of certificates to pensioners,
- (7) registers of such certificates,

and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

**SCHEDULE.**

**I.—BENGAL REGULATIONS.**

| Number and year. | Title or Subject.  | Extent of repeal. |
|------------------|--|-------------------|
| XXIV of 1793     | A Regulation for re-enacting, with Modifications, the rules passed by the Governor General in Council on the 10th June, 1791, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of land, but included in the Jumma or Revenue payable to Government at the decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished. | The whole.        |

**SCHEDULE—continued.**

| Number and year. | Title or Subject.  | Extent of repeal.                              |
|------------------|--|--|
| XXXIV of 1795    | A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.  | The whole.                                     |
| XXIV of 1803     | A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive, Pensions, under the Denominations of Salemah, Rozeem, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company. | The whole.                                     |
| I of 1804        | A Regulation for the better Management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.  | Sections twenty-three to twenty-six inclusive. |
| XII of 1805      | A Regulation for the Settlement and Collection of the public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttapore, Kummardiehour, and Boggara, at present included in the Zillah of Midnapore.  | Section thirty.                                |
| XXII of 1806     | A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.   | The whole.                                     |
| II of 1811       | A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.   | The whole.                                     |
| XI of 1813       | A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the Abuses committed in the receipt of Pensions.  | The whole.                                     |
| VI of 1817       | A Regulation to explain the Purport and Intent of the Provision contained in Section II, Regulation XXIV, 1803.  | The whole.                                     |

**II.—MADRAS REGULATIONS.**

|            |  |                      |
|------------|--|----------------------|
| I of 1803  | A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.   | Section forty-three. |
| II of 1803 | A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.   | Section thirty.      |
| IV of 1831 | A Regulation for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges, or of Zemindaries, or Pannams forfeited or held under Attachment or Management by the Officers of Government, or as Yearly or Pensions. | The whole.           |



SCHEDULE—*continued*.

## III.—Acts.

|               |  |            |
|---------------|--|------------|
| XXXI of 1836  | Government Grants  | The whole. |
| XXIII of 1838 | Exemption of grants from attachment.   | The whole. |
| VI of 1849    | An Act for securing Military and Naval Pensions and Superannuation Allowances. | The whole. |

## STATEMENT OF OBJECTS AND REASONS.

The law relating to pensions is at present distributed over nine Regulations of the Bengal, three Regulations of the Madras, and two Regulations of the Bombay, Codes, as well as three Acts of the Governor General in Council.

The main provision of the law as expressed in the Bengal Regulations XXIV, 1793, section 17, XXXIV, 1795, section 14, XXIV, 1803, section 16, and VI, 1817, and the Madras Regulation IV, 1831, section 2, is the reservation to Government of the right to determine on all claims to the continuance of pensions, and the exclusion of the jurisdiction of the ordinary Courts of judicature in regard to such claims.

In the Bombay Presidency, under the operation of Regulations XXIX, 1827, and VII, 1830, the Civil Courts are barred from the cognizance of

suits to enforce such claims throughout the Dekhan Khandeish and the South Mahratta Country.

The Bengal Regulations, though expressly applicable only to Bengal and the North-Western Provinces, are practically in force throughout the more recently acquired provinces; hence the law as above described applies to all India, except a portion of the Bombay Presidency.

Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases.

The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration.

The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India.

F. R. COCKERELL.

27th February 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.



# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 11, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 19.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd March 1871, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 7 of 1871.

*A Bill to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue.*

For the purpose of consolidating and amending the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

#### I.—Preliminary.

Short title. 1. This Act may be called 'The Pensions' Act, 1871':

Extent of Act. It extends to the whole of British India;

And it shall come into force at the expiration of one month from the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

But all rules in regard to the payment of pensions and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent herewith.

#### II.—Rights to Pensions.

3. No Civil Court shall take cognizance of suits to enforce claims to any pensions, or grants of money, or assignments of land-revenue, conferred or made by the British or any former Government.

4. Nothing in section three applies to pensions heretofore granted by Government, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

5. All persons claiming pensions or grants by Government of money or land-revenue shall prefer their claims to the Collector of the District, or Deputy Commissioner, or other officer authorized in this behalf by the Local Government, and such officer shall dispose of such claims in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

#### III.—Mode of Payment.

6. All pensions or grants by Government of money or land-revenue shall be paid by the Collector, or the Deputy Commissioner or other authorized officer, subject to such rules as may from time to time be prescribed by the Chief Controlling Revenue Authority.

7. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grants by Government of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

8. On the application of any person entitled to receive a pension, or grants by Government of money or land-revenue, the place of payment may, if the Chief Controlling Authority thinks fit, be altered.

#### IV.—Miscellaneous.

9. The reduced pay or pension, however called, of any invalid officer, soldier, sailor or retainer of the army or navy, in the military or naval service of Her Majesty or of the East India Company,

and also any monthly or yearly pensions, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Local Government,

and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively,

and also all money due or to become due on account of any such pension or allowance,

shall be exempt from seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

**10.** All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section nine,

Assignments, &c., in anticipation of such pensions, to be void.

in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

**11.** Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

**12.** The Chief Controlling Revenue Authority may, with the consent of the Local Government, from time to time make rules consistent with this Act respecting all or any of the following matters:—

- (1) the place and times and the person at which and to whom any pension shall be paid,
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records,
- (5) correction of such records,
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- (7) registers of such certificates, and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

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| XXII of 1806     | A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.   | The whole.                                     |
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## SCHEDULE—continued.

## III.—Acts.

|               |  |            |
|---------------|--|------------|
| XXXI of 1836  | Government Grants  | The whole. |
| XXIII of 1838 | Exemption of grants from attachment.   | The whole. |
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In the Bombay Presidency, under the operation of Regulations XXIX, 1827, and VII, 1830, the Civil Courts are barred from the cognizance of suits to enforce such claims throughout the Dekhan, Khandeish and the South Mahratta Country.

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Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases.

The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration.

The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India.

F. R. COCKERELL.

27th February 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1871, and was referred to a Select Committee with instructions to make their report thereon in a fortnight:—

No. 8 of 1871.

## THE LAND IMPROVEMENT BILL, 1871.

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## PREAMBLE.

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Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

## CHAPTER II.—Advances of Money for making Improvements.

4. Application for advance.
5. Procedure of Collector on receiving application.
6. When Collector may grant certificate.
7. Notice to landlord.
8. Proof of service of notice.
9. Certificate when granted.
10. Contents of certificate.
11. Advance of money by Collector.
12. Advances recoverable as arrears of land-revenue.
13. Advance not to raise presumption of ownership.

## CHAPTER III.—Supplementary Powers.

14. Power to fix aggregate amount of advances.
15. Power to make rules.  
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*A Bill to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement.*

WHEREAS it is expedient to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement; It is hereby enacted as follows:—

## CHAPTER I.—Preliminary.

1. This Act may be called "The Land Improvement Act, 1871":  
It extends only to the territories respectively under the government of the Lieutenant Governors of the North-Western Provinces and the Panjāb and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma;

And it shall come into force on the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified therein.



and also any monthly or yearly pensions, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Local Government,

and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively,

and also all money due or to become due on account of any such pension or allowance,

shall be exempt from seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

**10. All assignments, agreements, orders, sales**

Assignments, &c., in anticipation of such pensions, to be void.

and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section nine,

in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

**11. Whoever proves to the satisfaction of the**

Reward to informers.

Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

**12. The Chief Controlling Revenue Authority**

Power to make rules.

may, with the consent of the Local Government, from time to time make rules consistent with this Act respecting all or any of the following matters:—

- (1) the place and times and the person at which and to whom any pension shall be paid,
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records,
- (5) correction of such records,
- (6) delivery of certificates to pensioners,
- (7) registers of such certificates,

and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

**SCHEDULE.**

**I.—BENGAL REGULATIONS.**

| Number and year. | Title or Subject.  | Extent of repeal. |
|------------------|--|-------------------|
| XXIV of 1793     | A Regulation for re-enacting, with Modifications, the rules passed by the Governor General in Council on the 10th June, 1794, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of land, but included in the Jumma or Revenue payable to Government at the decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished. | The whole.        |

**SCHEDULE—continued.**

| Number and year. | Title or Subject.   | Extent of repeal.                              |
|------------------|---|--|
| XXXIV of 1795    | A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.   | The whole.                                     |
| XXIV of 1803     | A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive, Pensions, under the Denominations of Salsanah, Rozamah, or any other Description of Grant, in the Provinces ceded by the Nawaab Vizier to the Honourable the English East India Company. | The whole.                                     |
| I of 1804        | A Regulation for the better Management of the Invalid Jagheersdar Establishments, and of the Invalid Pension Establishments.  | Sections twenty-three to twenty-six inclusive. |
| XII of 1805      | A Regulation for the Settlement and Collection of the public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore.   | Section thirty.                                |
| XXII of 1806     | A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.  | The whole.                                     |
| II of 1811       | A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.  | The whole.                                     |
| XI of 1813       | A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the Abuses committed in the receipt of Pensions.   | The whole.                                     |
| VI of 1817       | A Regulation to explain the Purport and Intent of the Provision contained in Section II, Regulation XXIV, 1803.   | The whole.                                     |

**II.—MADRAS REGULATIONS.**

|            |  |                      |
|------------|--|----------------------|
| I of 1803  | A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.   | Section forty-three. |
| II of 1803 | A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.   | Section thirty.      |
| IV of 1831 | A Regulation for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges, or of Zemindaries, or Pannas forfeited or held under Attachment or Management by the Officers of Government, or as Yeomahs or Pensions. | The whole.           |

## SCHEDULE—continued.

## III.—ACTS.

|               |  |                |
|---------------|--|----------------|
| XXXI of 1836  | Government Grants  | ... The whole. |
| XXIII of 1838 | Exemption of grants from attachment.   | The whole.     |
| VI of 1849    | An Act for securing Military and Naval Pensions and Superannuation Allowances. | The whole.     |

## STATEMENT OF OBJECTS AND REASONS.

The law relating to pensions is at present distributed over nine Regulations of the Bengal, three Regulations of the Madras, and two Regulations of the Bombay, Codes, as well as three Acts of the Governor General in Council.

The main provision of the law as expressed in the Bengal Regulations XXIV, 1793, section 17, XXXIV, 1795, section 14, XXIV, 1803, section 16, and VI, 1817, and the Madras Regulation IV, 1831, section 2, is the reservation to Government of the right to determine on all claims to the continuance of pensions, and the exclusion of the jurisdiction of the ordinary Courts of judicature in regard to such claims.

In the Bombay Presidency, under the operation of Regulations XXIX, 1827, and VII, 1830, the Civil Courts are barred from the cognizance of suits to enforce such claims throughout the Dekhan, Khandeish and the South Mahratta Country.

The Bengal Regulations, though expressly applicable only to Bengal and the North-Western Provinces; are practically in force throughout the more recently acquired provinces; hence the law as above described applies to all India, except a portion of the Bombay Presidency.

Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases.

The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration.

The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India.

F. R. COCKERELL.

27th February 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1871, and was referred to a Select Committee with instructions to make their report thereon in a fortnight:—

No. 8 of 1871.

## THE LAND IMPROVEMENT BILL, 1871.

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*A Bill to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement.*

WHEREAS it is expedient to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement; It is hereby enacted as follows:—

## CHAPTER I.—Preliminary.

1. This Act may be called "The Land Improvement Act, 1871":

It extends only to the territories respectively under the government of the Lieutenant Governors of the North-Western Provinces and the Panjáb and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma;

And it shall come into force on the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified therein.

## Interpretation-clause.

## 3. In this Act—

"Land" means land used for agricultural purposes, or waste land which is cultivable;

"Rent" means whatever is payable or deliverable for the use or occupation of land;

"Landlord" includes a superior, mesne or immediate proprietor and any person entitled for the time being to receive rent directly from a tenant;

"Landlord."

"Tenant" means any person actually using or occupying land, and liable to pay or deliver rent therefor;

"Tenant."

"Improvement." "Improvement" means:—

1st, wells, tanks and other works for the storage, supply, or distribution of water for agricultural purposes, or the preparation of land for irrigation;

2nd, works for the drainage of land;

for the reclaiming of land from rivers, or from other waters;

for the protection of land from floods, or from erosion or other damage by water;

3rd, the reclaiming, clearing, and enclosing of waste lands for agricultural purposes;

4th, the clearing of the land from stones or other obstacles to cultivation;

5th, the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value; and

"Collector" means the Collector of land-revenue, or the Deputy Commissioner, or any officer

"Collector."

authorized by the Local Government to exercise the powers of a Collector under this Act.

## CHAPTER II.—Advances of Money for making Improvements.

4. Any landlord or tenant desiring to make an improvement in any land of which he is in possession or occupation, and to obtain

Application for advance.

an advance of money to enable him to make such improvement, may make an application to the Collector for such advance, stating at the same time the nature and amount of the security which the applicant proposes to furnish for the repayment of such advance.

5. On receiving such application, the Collector shall make such inquiry as he deems necessary to ascertain the propriety or otherwise of making the advance.

Procedure of Collector on receiving application.

When Collector may grant certificate.

6. If the Collector be satisfied—

(a) that the improvement will immediately or prospectively increase the annual value of the land to be improved by an amount exceeding the largest sum to be charged in any one year under this Act for the repayment of the advance, and

(b) that the proposed security is adequate,

he may grant to the applicant a certificate sanctioning an advance of money for the purpose of making the improvement.

7. If (a) the applicant is a tenant not having the right to transfer his interest in the land without the consent of the landlord,

Notice to landlord.

or (b) if the applicant is a tenant having such right, but the amount of the advance applied for exceeds the value of the said interest,

and if, in either of such cases, the Collector is not satisfied that the proposed security is adequate,

the Collector shall serve notice of the application on the landlord personally or upon his agent authorized to receive service on his behalf.

8. No such notice shall be deemed to have been served unless the service is acknowledged by the landlord or his agent, or the fact of its having been made be otherwise established to the satisfaction of the Collector.

9. If the landlord does not within one month after such service signify in writing to the Collector his dissent to the making of the proposed improvement, or if he dissents but, after the Collector has explained his reasons for thinking the improvement desirable, withdraws in writing such dissent, the Collector may grant the certificate.

Certificate when granted.

Contents of certificate. 10. The certificate shall

(a) state the amount of the advance;

(b) state the conditions under which it is to be made and recovered;

(c) specify the land or interest in the land (if any) which, in the event of any sum not being repaid by the person receiving the advance, shall become chargeable for the repayment of the same; and

(d) state the nature and amount of any other security furnished.

11. When such certificate has been granted, the Collector may make the advance therein mentioned.

12. All sums stated in such certificate shall, when they become due, be recoverable from the person to whom the advance was made, or from any person who has become security for the repayment thereof, as if they were arrears of land revenue due by the person to whom the advance was made or by his security.

If any such sum cannot be so recovered, it shall be recoverable as if it were an arrear of revenue due on the land specified in the said certificate:

Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of no person, other than such landlord or tenant, in the said land shall be sold under this section.

13. The making of an advance under this Act to a tenant shall in no case be deemed to confer upon him any right to or interest in the land in respect of which the advance is made, or to alter the respective rights or interests of landlord and tenant in such land.

Advance not to raise presumption of ownership.

CHAPTER III.—*Supplementary Powers.*

14. The Governor General in Council shall determine, from time to time, the aggregate amount which may be applied by the Local Government for the purpose of making advances under this Act, or which may be permitted to remain outstanding and not repaid or discharged at any one time, on account of such advances.

15. The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act in all matters connected with its enforcement, and may, from time to time, alter and add to the rules so made.

Such rules shall, among other things, make provision :—

1st, for prescribing the manner in which applications may be made by persons desiring to obtain advances from the Collector for making improvements, and in which inquiries relating to such applications shall be conducted;

2nd, for prescribing the forms which are to be used in any proceeding under this Act;

3rd, for determining the conditions under which such advances may be made, and under which they are to be repayable;

4th, for securing the due expenditure of such advances, and the due execution, inspection, and maintenance, during the term fixed for the repayment of the advance, of the improvements for which the advances are made;

5th, for keeping and auditing the accounts of such advances;

6th, for making local enquiries or otherwise carrying out the provisions of this Act.

Any sums expended by the Collector in accordance with rules made under this section shall be recoverable as if they were part of the advance in connection with which they were made.

## SCHEDULE.

*Bengal Regulations.*

| Number and Year. | Title.  | Extent of repeal.                     |
|------------------|---|---------------------------------------|
| II. 1793.        | A Regulation for abolishing the Courts of Maul Adawlut or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewanny Adawlut; and prescribing rules for the conduct of the Board of Revenue and the Collectors. | Sections twenty-three and forty-four. |
| XIV. 1793        | A Regulation for the recovery of arrears of the public revenue assessed upon the lands, from Zemindars, independent Talookdars, and other actual proprietors of land, and farmers of land holding farms immediately of Government.  | Section forty.                        |

## SCHEDULE—continued.

*Bengal Regulations—continued.*

| Number and Year. | Title.   | Extent of repeal.  |
|------------------|--|--------------------|
| III. 1794        | A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and for prescribing the process by which Tehsildars are to demand payment of arrears; and for enabling the Collectors to recover from Native Officers employed under them, public money or papers which they may embezzle or retain; and for expediting the trial of causes relating to the public revenue or the rents of individuals. | Section eight.     |
| VI. 1795         | A Regulation prescribing the process by which the Collector and the Tehsildars are to realize the public revenue payable from the lands in the province of Benares.  | Section forty-six. |
| XLVI. 1795       | A Regulation for extending to the Province of Benares, Regulation XXXIII, 1793, entitled, "A Regulation for re-enacting, with Modifications, the Rules passed on the 11th February and 21st October, 1791, for repairing the Embankments kept in Repair at the public Expense; and for encouraging the digging of Tanks or Reservoirs and Watercourses, and making Embankments.  | The whole.         |
| XLIV. 1803       | A Regulation prescribing Rules for the Repair of Watercourses, Wells, and of other Works constructed for the Improvement of the Cultivation of the Lands, and kept in Repair at the public Expense, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, and for affording Encouragement to Individuals to construct such Works.   | The whole.         |

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate and amend the law relating to advances of money by the Government for the construction of works of agricultural improvement.

Almost from the commencement of the British rule in India, the Government has recognized the duty of making advances, usually called *takkavi*, to the owners and occupiers of land, for the purpose of promoting the construction of minor works of agricultural improvement, not requiring much engineering skill or the employment of large numbers of labourers, but of such a description that they can be designed and carried out by the people themselves. The existing law upon the subject is contained in the Regulations mentioned in the schedule to the Bill. It is provided by these enactments that *takkavi* advances shall be recoverable by the same processes which are applicable to the recovery of arrears of land-revenue, and the security for repayment is thus rendered complete.



The provisions of the Regulations in question are, in some respects, hardly suited to the circumstances of the present time. The consolidation of the existing law upon the subject is necessary, and it is desirable to take the opportunity of amending the law where it is defective.

The system under which *takkávi* advances have long been made in India for permanent agricultural improvements, and which it is proposed to continue under the present Bill, is identical in principle with that which has been carried out, with admirable results, in the United Kingdom, by means of the Land Improvement Acts, and it is believed that this principle may properly receive a wider and more systematic development in India than has hitherto been given to it.

The Bill defines the classes of works for which the assistance of the Government may be granted; it authorizes the Local Governments, with the previous sanction of the Governor General in Council, to make rules prescribing the manner in which applications for advances may be made; the conditions under which advances may be granted, and under which they will be re-payable; for securing the due expenditure of the advances, the proper execution, inspection and maintenance of the works for which the advance was made; and for the keeping and auditing of accounts.

Long experience has shown that the system of granting advances of this description cannot throw any financial burden on the public, for no advance can be made unless the reproductive character of the work is certain, while the security for the repayment, both of the capital and interest, will be in every case complete.

The Bill refers only to advances for works of permanent agricultural improvement. A vicious system formerly prevailed in some parts of India, under which nominal advances, called *takkávi*, were often made to liquidate balances due on account of Government revenue, and for other temporary purposes. This system had nothing in common with that described in the present Bill.

JOHN STRACHEY.

The 16th January 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations.

No. 9 of 1871.

*A Bill to provide for the levy of rates on land in Oudh.*

WHEREAS it is expedient to provide for the levy of rates on land in Oudh to be applied to local and provincial purposes; It is hereby enacted as follows:—

1. This Act may be cited as "The Oudh Local Rates Act."

It extends only to the territories under the administration of the Chief Commissioner of Oudh,

Local extent.

and it shall come into force on the first day of April 1871.

Commencement.

2. In this Act—

"Land" means land assessed to the land-revenue, and includes land

Interpretation-clause.

whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned:

"Landlord" means the person in receipt of the rent of any land, and responsible for the payment of the

"Landlord."

land-revenue, if any, assessed on the estate. It also includes a Muáfidár or other person holding land, the land-revenue of which has been released, compounded for, redeemed, or assigned:

"Estate" means all or any part of a village separately assessed to the

"Estate."

land-revenue, or separately exempted from payment thereof; and

"Annual value."

"Annual value" means as follows:—

(1) In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue assessed on an estate;

(2) In cases in which such settlement is not liable to such revision, or in which the land-revenue or a portion thereof has been released, compounded for, redeemed, or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

3. A rate, not exceeding one and a quarter per cent. on the annual value, shall

Rates assessable.

be assessed on every estate.

Such rate shall be payable by the landlord independently of, and in addition to, any land-revenue for the time being assessed on the estate and any local cesses now imposed thereon.

4. Every landlord may recover from his co-sharers or pattidárs, if any,

Power to recover contribution.

a share of the rate bearing the same proportion to the

whole rate that the share of such co-sharer or pattidár, recorded at the time of the settlement, bears to the whole estate for the rate on account of which such landlord is responsible.

5. In any case in which the rate is charged on a landlord on account of

Rate on land in the occupation of an under-proprietor, or tenant with right of occupancy.

land in the use or occupation of an under-proprietor, permanent lessee or a tenant

with right of occupancy, such landlord may realize from such under-proprietor, lessee or tenant, a share of the rate bearing the same proportion to the whole rate that the share of such under-proprietor, lessee or tenant, in the annual value of the land on which the rate is charged, bears to half the annual value of such land.

6. Suits for the recovery from co-sharers, under-proprietors, permanent

Jurisdiction over suits as to rates.

lessees, and tenants with rights of occupancy, of any

sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of

such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh,

and the provisions of the Oudh Rent Act, chapters VII, VIII and IX, shall apply to such suits.

7. In case of revision of the land-revenue of any estate in consequence of alluvion or diluvion, rates assessed under this Act shall also be liable to revision.

8. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund, and, subject to the provisions of section nine, the balance for the time being at the credit of such fund shall be applied for the benefit of the province of Oudh in such manner as the Chief Commissioner from time to time directs.

9. The Local Government shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes—

- (1) The construction, repair, and maintenance of roads and communications ;
- (2) The construction and repair of school-houses, the maintenance and inspection of schools, and the training of teachers ;
- (3) The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort or convenience.

Such assignment shall not be less and may be more than seventy-five per cent. of the total sum assessed under this Act in such district.

10. Any portion of such assignment which remains unexpended at the end of the financial year in which the assignment was made shall, unless the Local Government otherwise directs, be held to be a portion of the general provincial fund mentioned in section eight.

11. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of the assignment made under section nine, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

12. The Local Government shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of assisting in determining how the amount mentioned in section nine shall be applied, and in the supervision and control of the expenditure of such amount:

Provided that not less than one-half of the members of such Committee shall be persons not in the service of the Government, and owning or occupying land in the district, or residing therein.

The Local Government shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

13. The Chief Commissioner may, by notification, from time to time,

- (a) prescribe by what instalments and at what times any rate imposed under this Act shall be payable, and by whom it shall be collected and paid ;
- (b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement ;
- (c) exempt any portion of the territories under his administration from the operation of this Act.

Every notification under this section shall be published in the local official Gazette.

#### STATEMENT OF OBJECTS AND REASONS.

The Resolution of the Government of India, in the Financial Department, dated the 14th December 1870, confers upon Local Governments additional responsibilities for the administration of certain departments of the public service, specially connected with local and provincial requirements. It is proposed largely to reduce the amount which the Imperial Government has hitherto levied from the public by direct taxation, and it has become necessary to diminish, to a small extent, the grants hitherto made from the imperial revenues for expenditure on local and provincial purposes. In Oudh, many works of local public improvement are urgently required, but the funds already at the disposal of the Government of the Province are insufficient, and, for the reasons just stated, no further assignment from the imperial revenues can, under existing circumstances, be made. To supplement these funds, it is proposed by the Local Government to impose a small additional rate on the land.

This rate will be identical in its nature with the cesses for roads, schools and other local purposes which have long been levied, and with which the people have been familiar since the establishment of the British Government in Oudh. The more influential and wealthy representatives of the Taluqdárs have signified to the Chief Commissioner their approval of the proposed measure.

The Bill imposes on all land in Oudh which has been assessed to the land-revenue, or assigned to Muáfidárs and others, a rate not exceeding one and a quarter per cent. on the annual value of the land. The rate will be payable by the landlord, but where there are co-sharers, under-proprietors, or tenants with rights of occupancy, who intercept a portion of the annual value of the land, he will be entitled to recover from such persons a share in the rate bearing the same proportion to the whole rate as the landlord's share in the profits of the land bears to the share of the subordinate holder.

JOHN STRACHAN.

The 10th March 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations.

No. 10 or 1871.

*A Bill for the levy on Land of rates to be applied to provincial local purposes in the North-Western Provinces.*

WHEREAS it is expedient to provide, in the North-Western Provinces of the Presidency of Fort William, for the levy on land of rates to be applied to local purposes; It is hereby enacted as follows:—

*I.—Preliminary.*

1. This Act may be called "The North-Western Provinces Local Rates Act, 1871."

It extends only to the territories subject to the Lieutenant-Governor of the North-Western Provinces,

and it shall come into force on the first day of April 1871.

Interpretation-clause. 2. In this Act—

"Commissioner" means Commissioner of a Division;

"Collector" means the Head Revenue Officer of a district;

"Division" and "district" mean the tracts of country ordinarily known by such names for purposes of civil administration;

"Land" means land used for agricultural purposes, or waste land which is cultivable.

"Rent" means whatever is payable or deliverable for the use or occupation of land.

"Tenant" means any person using or occupying land, and liable to pay or deliver rent therefor.

"Landlord" means the person in possession of an 'estate' or a share of an estate, or of the rents and profits of such estate or share.

"Estate" means all or any part of a village separately assessed to the payment of land revenue, or of which the land revenue has, either wholly or in part, been released, compounded for, redeemed, or assigned.

"Annual value" means as follows:

(1). In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;

(2). In cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

"Local purposes" means—

- (1). The construction, repair and maintenance of roads and communications;
- (2). The maintenance of the police;
- (3). The construction and repair of school-houses, the maintenance and inspection of schools, and the training of teachers;
- (4). The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

*II.—Rates on Land in Estates in Districts of which the Settlement is liable to Revision.*

3. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX of 1838 has expired, shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate.

Provided that in estates in which, before the passing of this Act, provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of a rate levied under the former part of this section.

*III.—Rates on Land in Estates of which the Land Revenue is not liable to periodical Revision.*

4. Every estate situated in a district of which the land-revenue is not liable to periodical revision, shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes not exceeding two annas for each acre under cultivation or which has been cultivated within the three years next before the assessment of the rate.

5. The rate shall be paid by the landlord independently of and in addition to any land-revenue assessed on the estate, and in addition to the cess levied now on account of roads.

6. The Lieutenant-Governor shall, from time to time, prescribe rules for ascertaining the area of the cultivated land assessable under section four.

7. The landlord may recover, from every tenant paying rent to him in respect of land on which such rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate assessed on the land held by such tenant.

8. The Lieutenant-Governor may from time to time make rules consistent with this Act, for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate assessed on the land held by such tenants.

Power to make rules as to when a landlord may recover rates from tenants holding at fixed or beneficial rates.

*IV.—Manner in which the Rates are to be expended.*

Rates to be carried to general fund.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general fund.

10. The Local Government shall, from time to time, make an assignment from such fund of the amount to be applied in each district for expenditure for local purposes.

Assignments from general fund.

Such assignment shall not be less than seventy-five per cent. of the total sum assessed under this Act in such district.

11. In the case of works which benefit more districts than one, the Local Government may determine what proportion of the expense of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

Works benefiting several districts.

12. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made shall, unless the Local Government otherwise specially directs, be held to be a portion of the general fund mentioned in section nine.

13. Accounts of the receipts on account of all rates levied under this Act, and of the receipts and expenditure of such assignment, shall be kept in each district.

Accounts to be kept.

The details of such accounts shall, at all reasonable times, be open to the inspection of the Committee appointed under section fourteen.

An abstract of such accounts shall be prepared annually in English and in the Vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

14. The Local Government shall appoint, in each district, a Local Committee, consisting of not less than six persons, for the purpose of assisting in the determination of the objects to which any money made available in accordance with this Act for expenditure within the district for local purposes shall be applied, and in the supervision and control of the expenditure incurred.

Local Committees.

The Local Government shall, from time to time, prescribe the manner in which the Members of such Committee shall be appointed or removed, and shall define the functions and authority of

such Committee: Provided that not less than one-half of the Members of such Committee shall be persons not in the service of the Government, and owning or occupying land in the district, or residing therein.

*V.—Miscellaneous.*

15. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included among the suits mentioned in section twenty-three of Act No. X of 1859 and in section one of Act No. XIV of 1863,

and appeals from decisions in such suits shall be cognizable in accordance with the provisions of Act No. X of 1859 and Act No. XIV of 1863.

16. In matters connected with the assessment and collection of any sum leviable under this Act, appeals to the Commissioner from the orders of the Collector, and appeals to the Board of Revenue from the orders of the Commissioner, shall be presented within thirty days from the date of the order.

17. The Lieutenant-Governor may invest any officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act. The orders passed by any officer so invested shall be subject to revision by the Collector, but shall be appealable to the Commissioner only.

18. In case of revision of the land-revenue of any estate in consequence of cases of alluvion or diluvion, rates assessed under this Act shall also be liable to revision.

19. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Recovery of rates.

20. The Lieutenant-Governor may, by notification from time to time,

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be collected and paid to Government;

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(c) exempt any portion of the territories within its jurisdiction from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act.

Every notification under this section shall be published in the *Government Gazette, North-Western Provinces*.

**STATEMENT OF OBJECTS AND REASONS.**

The Resolution of the Government of India in the Financial Department, dated 14th December 1870, confers upon Local Governments the charge of certain Departments of the public service spe-



cially connected with local requirements, and reduces the amount of the grants hitherto made for those services from the Imperial Revenue. With the object of supplementing those grants, and of providing the means of carrying out many works of local improvement which are urgently required, but for which under existing circumstances no assignments can be made from Imperial Funds, the Lieutenant-Governor of the North-Western Provinces desires to impose additional rates on the land. The present Bill is intended to give the necessary powers to the Local Government.

In districts temporarily settled, a rate of five per cent. on the annual value of every estate has been hitherto imposed, on the revision of the assessment of the Government demand on account of land-revenue, made under Regulation IX of 1833. It is now proposed to impose this rate on all such estates of which the settlement has expired, without waiting for the regular revision of the assessment.

In the permanently settled districts, a rate of one per cent. on the Government demand on account of land-revenue is now paid by landlords. The amount realized by this rate is altogether inadequate to meet the local requirements of these districts; and it is therefore proposed to levy a further rate of two annas on each acre of cultivated land, in all estates of which the land-revenue is not liable to periodical revision, giving the landlord power to recover one-half the rate levied from the tenants holding under him.

J. F. D. INGLIS.

The 10th March 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations :—

#### No. 11 of 1871.

*A Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh.*

Whereas it is expedient to impose a duty on certain trades and dealings in the North-Western Provinces and Oudh; It is hereby enacted as follows :—

1. This Act may be called "The License Tax (North-Western Provinces and Oudh) Act."

It extends to the territories respectively subject to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, except such districts or tracts as the Local Government may from time to time, permanently or for a fixed period, exempt from its operation;

And it shall come into force on the first day of April 1871.

Interpretation clause.

#### 2. In this Act—

"District" means the tract of country ordinarily known by such name for purposes of Civil Administration.

"Collector of the District" means the Head Revenue Officer of a District.

"Collector" means any officer subordinate to the Collector of the District invested with all or any of the powers of a Collector of a District.

3. Every person falling under any of the heads specified under Schedule A person coming under hereto annexed, and carrying on (whether on behalf of himself or any other person) his trade or dealing, shall be required to pay a duty fixed by the Local Government not exceeding the duty specified in Schedule B hereto annexed.

4. For the purposes of this Act, trades and dealings shall be divided into the three classes enumerated in Schedule A.

5. In all cases of doubt or objection, the Collector of the District shall decide the class, if any, under which any person shall fall. There shall be no appeal from such decision.

6. On or before the first day of April in this year and the first day of January in every subsequent year, the Collector shall make a list of the persons liable to pay duty under this Act, and such list shall state the trade or dealing of each of the persons therein named, and the duty payable by them.

All lists made under this section shall be filed in the office of the Collector.

The Collector shall, at or about the same time, issue a notification, in such form as the Local Government directs, showing the classes assessable under this Act, and the rate at which each class is assessed, with such other information as the Local Government may direct.

The notification shall be published in the principal mahallas or ganjes of all towns, and in the chaupál, or other public place, in all villages concerned.

7. So soon as may be practicable after the issue of such notification, notice shall be served on each person assessed: provided that in any year it shall not be necessary that such notice shall be served on any person who may have been assessed under this Act in the year immediately preceding.

Such notice shall contain—

the name and designation of the person assessed, the class under which he falls, the amount payable, the date or dates on which payment is to be made, the mode and place of payment, the penalty incurred by failure to make payment of the amount on the given date,

and shall notify that if the person so served continues his trade or dealing, payment of the amount specified in the notice must be made within thirty days next after the first day of January of each successive year.

8. Payment of the prescribed duty shall in all cases be made to the Collector within the district in which the trade or dealing is carried on: provided that

in all cases where the trade or dealing is carried on in more than one district, payment shall be made in one district only, under the rules prescribed in this behalf by the Local Government.

9. The Collector shall thereupon grant a license to the person paying such duty. Such license shall be signed by the Collector or by

any officer whom he authorises in this behalf, and shall specify—

- (1). The date of the grant thereof.
- (2). The name and trade or dealing of the licensee.
- (3). The sum paid for the license.
- (4). The place or places where the licensee intends to carry on his trade or dealing for the ensuing year.

10. Receivers or managers appointed by any Court in India, and the Courts of Wards, shall be chargeable under this Act in respect of any trade or dealing, of which the income is officially in their possession or under their control.

11. When any trustee, guardian, curator, committee, or agent is assessed under this Act in such capacity, or when any receiver appointed by any Court or Court of Wards is assessed under this Act, every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as such receiver or Court of Wards, retain so much as is sufficient to pay the amount of the assessment.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

12. The Collector of the District may require any Municipality constituted under Act No. XXVI of 1850, Act No. XVIII of 1864, or Act No. VI of 1868 to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons assessable under this Act resident within the limits of such Municipality, together with the class under which they fall and the amount payable by them.

If the Municipality fails within the period prescribed to make such returns, or if it make such returns, but the Collector of the District has reason to doubt their accuracy, he may at any time cause a return shewing the names and numbers aforesaid to be prepared in such manner as may be prescribed by the Local Government.

13. When the return mentioned in section twelve has been furnished or prepared, notice shall be served on the Municipality calling on

it to pay to the Collector of the District, within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Any Municipality may, subject to the provisions of section fifteen, appropriate all or any part of its revenues to the payment of the sum assessed upon it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums shall be raised in accordance with the Act under which it is constituted.

14. Every person not resident within the limits of a Municipality who is found, after expiry of the period specified in the notice to be served under section seven, carrying on any trade or dealing specified in Schedule A without possession of a license under this Act,

and every person required by this Act to take out a license who without reasonable excuse neglects or refuses to produce and shew his license when required so to do by an officer empowered in writing by the Collector to make such requisition,

shall be punished on conviction before a Magistrate with a fine amounting to twice the sum payable by him under Schedule B.

There shall be no appeal from the order of a Magistrate under this section.

15. Sums assessed upon Municipalities under Assessments to be a section thirteen shall be first charge. deemed, after payment of police charges, a first charge on their revenues, anything in Act No. VI of 1868 notwithstanding.

16. All arrears due under this Act may be recovered as if they were fines.

17. Nothing in this Act applies to persons being itinerant vendors.

18. The Local Government may from time to time by notification exempt from the operation of this Act,

(a) any portion of the territories under his Government,

(b) alter or add to Schedule A,

(c) make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

All notifications under this section shall be published in the local official Gazette, and no notification under clause b shall take effect until the first day of April next after its publication.

## SCHEDULE A.

### CLASS I.

Bankers.  
Wholesale dealers in country produce.

### CLASS II.

Cloth-sellers.  
Metal Vessel-sellers.  
Fuel-sellers (Talwulla).  
Chowdrees.  
Agents.  
Letters-out of Carriages, Buggies, &c.  
Contractors.

## CLASS III.

## Sellers of Sweetmeats.

|   |   |
|---|---|
| " | Tobacco.  |
| " | Grocery and Spices.   |
| " | Salt.   |
| " | Pan.  |
| " | Bracelets.  |
| " | Grain and Provisions.   |
| " | Butcher's-meat.   |
| " | Perfumes.   |
| " | Jewellery.  |
| " | Gold and Silver Laces, Threads, &c.                           |
| " | Ghee.   |
| " | Lime.   |
| " | Articles made of stone: including<br>Grindstones and Mortars. |
| " | Miscellaneous Articles of European<br>manufacture.            |
| " | Silk.   |
| " | Shoes and Boots.  |
| " | Drugs and Medicines.  |
| " | Petty Timber Dealers.   |
| " | Blankets, Felt, &c.   |
| " | Durrees.  |
| " | Leather.  |
| " | Books.  |
| " | Manufactured Iron.  |
| " | Wood.   |
| " | Letters-out of Ekkas.   |
| " | " Camels.   |
| " | Brokers.  |
| " | Weighmen.   |

## SCHEDULE B.

Every person who shall exercise any trade, dealing, or profession, for gain or profit, for any period between the 1st of April in one year and the 1st of April in the succeeding year, shall pay for such period:—

|                       |     |     |     |   |
|-----------------------|-----|-----|-----|---|
| If belonging to Class | I   | ... | Rs. | 6 |
| "                     | II  | ... | "   | 4 |
| "                     | III | ... | "   | 2 |

## STATEMENT OF OBJECTS AND REASONS.

This Bill purports to impose a duty on trades, dealings and professions in the North-Western Provinces and Oudh, and its object is to confer upon the Government of those territories the powers necessary to raise a part of the sum required for local expenditure.

The trades, dealings and professions to be taxed are enumerated in schedule A. The duty will be levied on them if carried on in the North-Western Provinces or Oudh. Section eighteen gives the Local Government power to alter this schedule, by notification in the Gazette. It has been considered necessary to reserve this power because the schedule, as at present framed, may be found hereafter to have omitted trades, dealings, or professions, which should be included; or, on the other hand, it may be found necessary to exempt trades, dealings, or professions enumerated in it, or to alter the classification.

The schedule has been framed so as to include only trades, dealings and professions which, it is believed, will everywhere be competent to pay the rate assessed. Exemption is restricted to the case of persons having no fixed place for carrying on trade, such as hawkers and pedlars.

Trades, dealings and professions have been divided into three classes; the maximum rate to be charged on each class being 12, 8 and 4 per cent. per annum respectively. The amount assessed on any person will not be calculated on his supposed income or profits, but according to the class into which the trade, dealing, or profession he carries on, may fall.

The power of determining the class under which, in doubtful cases, any person may fall is reserved by section five to the Collector without appeal.

It has been provided by section eight that payment shall, in all cases, be made to the Collector of the District in which the trade, dealing, or profession is carried on, and when it is carried on in more than one District, the District in which payment is to be made, is to be determined by the Lieutenant-Governor.

Municipalities constituted under Act VI of 1868 will be assessed in a lump sum, based upon returns, to be furnished by the Municipality, of persons assessable under the Act. If the Collector has reason to doubt the accuracy of this return, power is given to him by section twelve to cause a return to be prepared under his own orders.

Section thirteen gives Municipalities so assessed the power to raise the sum required by any of the means enumerated in the Act under which it is constituted.

The remaining sections of the Bill do not require notice.

J. F. D. INGLIS.

The 1st March 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill is published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations :—

No. 12 OF 1871.

## THE INDIAN INCOME TAX BILL.

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## A BILL FOR IMPOSING DUTIES ON INCOME.

For the purpose of imposing duties on income arising from offices, property, professions and trades; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

**Short title.** 1. This Act may be called "The Indian Income Tax Act."

**Local extent.** It extends to the whole of British India;

**Commencement of Act.** It shall come into force on the first day of April 1871.

**Repeal of Act XVI of 1870.** 2. On and from the said day, Act No. XVI of 1870 shall be repealed:

Provided that such Act shall continue in force until the first day of April 1872

(a) as to taxes due thereunder, and

(b) as to assessments which ought to have been made thereunder, but which have not hitherto been made and completed.

The references made in the Court Fees Act, Schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

**Interpretation-clause.** 3. In this Act—unless there be something repugnant in the subject or context—

"Income" means income and profits accruing and arising in British India.

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace:

"Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Firm." "Firm" includes a Hindú undivided family:

"Person." "Person" includes a firm:

"Defaulter." "Defaulter" includes a firm making default under this Act:

"Rackrent" means the full rent or value at which lands or houses are worth to be let for the year.

In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

4. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

or to any moveable or immoveable property solely employed for religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

5. The Governor General in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor General in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India*.

## PART II.

## DUTIES ON OFFICES.

6. A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company,

and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

7. No income amounting to less than sixty-two rupees eight annas per mensem shall be chargeable under this Part.

8. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

9. In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April in each year, deliver, to the Collector, in such form as may be prescribed by the Governor General in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to sixty-two rupees, eight annas per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

10. Whenever the duty leviable under this Part in April 1871 is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, it shall be deducted from such pay, annuity or pension at some subsequent time of payment.

### PART III.

#### COMPANIES.

11. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee,

and in the case of every other Company pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee,

and shall prepare, and, on or before the thirtieth day of April in each year, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts.

12. If in the case of any Company no such accounts have been made up within any year ending on the thirty-first day of March, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and,

on or before the next following thirtieth day of April, deliver to the Collector a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

13. Whenever the Collector has reason to believe that any statement or return mentioned in section eleven or section twelve is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's office and to produce for the inspection of the Collector such of the accounts of the Company as refer to the year mentioned in section eleven or section twelve (as the case may be) and as are in the possession or power of such Treasurer, Secretary, Agent or Manager.

The Collector shall thereupon make an order determining the amount at which the company shall be assessed under this Part, and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

14. Every such Treasurer, Secretary, Agent or Manager is hereby indemnified for all payments made in pursuance of section eleven or section thirteen.

### PART IV.

#### DUTIES ON INTEREST ON GOVERNMENT SECURITIES.

15. A yearly duty of two pies in the rupee shall be levied upon all interest on securities of the Government of India.

Duty on interest.

16. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid,

and shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs,

and shall be answerable to the Government of India for such payment.

### PART V.

#### DUTIES ON ALL OTHER INCOME AND PROFITS.

17. A yearly duty shall be levied in accordance with the first Schedule hereto annexed upon all income not charged under Parts II, III, IV, or Part IV of this Act.

18. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of

the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were

sole, or to such lunatic or idiot if he were capable of acting for himself.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

**19.** Every trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent requiring him to deliver on or before a day to be specified in the notice a statement signed by him of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

**20.** Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

**21.** When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity;

or when any receiver or manager appointed by any Court, Court of Wards, Administrator General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, manager, Court of Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

**22.** Owners of lands or of houses occupying the same shall be chargeable in respect of the annual value thereof at the rackrent at which such lands or houses are worth to be let for the year.

**23.** In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion four thousand rupees or upwards, the Collector shall;

and in the case of every other person so chargeable, the Collector may

cause a notice to be served on him requiring him to fill in a return of his income during the three years ending on the thirty-first day of December next before the date of the notice, and to state in such return the period during which such income has actually accrued.

Such notice shall be in the form to be prescribed by the Governor General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

**24.** Every person on whom such notice is served shall send to or deliver at the Collector's office the return duly filled in and signed by him.

A declaration shall be added by such person at the foot of the return, (a) that the income stated therein is truly estimated on all the sources therein mentioned, (b) that it has actually accrued within the period therein stated, and (c) that he has no other source of income.

**25.** Every person, when required so to do by a notice in the form to be prescribed by the Governor General in Council shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to sixty-two rupees eight annas per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

**26.** The Collector shall from time to time determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed,

and in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

**27.** Every such assessment shall be made upon an average of such person's income for three years ending on the thirty-first day of December next before the date of the assessment, and such average shall be computed upon the period during which the income has actually accrued.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the assessment shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.



**28.** The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

(1).—The name and the profession, trade or other source of the income of such person, or in respect of which he is chargeable:

(2).—The year or portion of the year for which the duty is to be paid:

(3).—The place or places, district or districts, where such income accrues or arise; and

(4).—The amount to be paid;

and requiring him within fifteen days from the date of the service either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

**29.** Such amount shall be paid to the Collector, or, who shall give a receipt for such payment to the person making the same:

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

**30.** Every such receipt shall specify—

(1).—The name and source or sources of the income of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4).—The place or places, district or districts, where the income accrues and shall be admissible as *prima facie* proof of all matters contained therein.

## PART VI.

### PETITIONS AND APPEALS AGAINST ASSESSMENTS.

**31.** Any person objecting to the amount at which he is assessed, or denying his liability to be assessed under Part V, may within the period mentioned in the notice mentioned in section twenty-eight, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled:

Provided that no person who shall have been served with a notice under section twenty-three shall be entitled to apply by petition under this section unless he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

The petition shall be in the form contained in the schedule hereto annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

**32.** The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

**33.** Any person dissatisfied with any order under section fourteen or section thirty-two may, within fifteen days from the date thereof, on payment of the sum assessed or to which the assessment was enhanced, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the order of enhancement.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, and a copy of the Collector's order thereon and a list of the documents (if any) on which the appellant relies.

Neither of such copies shall be chargeable under the Court Fees Act.

When the decision on such appeal is in favour of the petitioner, the value of the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Company which he represents, is not chargeable under this Act) the whole sum so paid, shall at once be refunded.

**34.** The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed, and

may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the income in question.

35. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income not specified in the receipt granted to him under section twenty-nine has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source.

The provisions contained in sections twenty-eight to thirty-four (both inclusive) shall apply to such notice and regulate the procedure thereunder.

36. No Advocate, Pleader, or other legal practitioner shall be allowed to appear or plead on behalf of any other person on the hearing of any petition or appeal under this Part.

#### PART VII.

##### PAYMENT AND RECOVERY OF TAX.

37. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the first day of April in this and every subsequent year:

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-three upon the person paying the same, and the second instalment on the first day of October.

38. If the Collector has caused a notice to be served on any person liable to pay the said second instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, a sum not exceeding twice the amount so mentioned may be recovered from him in manner hereinafter mentioned.

39. In any case of default under this Act, the Collector may, if a notice has been served on the defaulter requiring him to pay, within fifteen days from the date of the service, the amount of the tax or instalment due by him under this Act, recover a sum not exceeding double the amount of such tax or instalment.

Every such sum shall be recoverable as if it were an arrear of land-revenue:

Provided that where any person has presented a petition under section thirty-one, such sum shall not be recoverable from him unless, within one week from the passing of the order thereon, he fails to pay the amount (if any) required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

40. If within or at the end of the year for which any computation under Part V has been made, the person assessed proves to the satisfaction of the Collector, that his income during such year fell short of the sum so computed, the Collector may cause the assessment made for such year to be amended as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any person assessed under Part V ceases to exercise the profession, or to carry on the trade, in respect whereof such assessment was made, or dies or becomes insolvent before the end of the year for which the assessment was made, or is, from any other specific cause, deprived of or loses the income on which the computation was made,

he or his representative in interest may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the person charged or his representative in interest as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

#### PART VIII.

##### PENALTIES.

41. Every Treasurer, Secretary, Agent, Manager or other person failing to make payments or deliver returns, or to prepare and deliver any return required by section nine or section sixteen,

or failing to make any payment or to prepare and deliver in due time any statement or return required by section eleven,

and every trustee, guardian or curator, committee or agent failing to deliver any statement or declaration required by section nineteen, shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

42. Whoever makes a statement in any declaration or list made or delivered under section twenty-four or twenty-five, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section thirty-one which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

43. No person shall be proceeded against for any offence under section forty-one or section forty-two except at the instance of the Collector.

44. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

## PART IX.

## MISCELLANEOUS.

45. Subject to the provisions of section thirty-three, every order made under this Act shall be final and conclusive, and the proceedings of the Collector or Commissioner of Revenue shall not be removable into any Court, or be subject to revision.

46. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

47. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

48. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any person has several places of residence in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor General in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

49. The Governor General in Council may from time to time

(a) prescribe forms for the returns, notices and lists herebefore mentioned,

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(c) delegate to any Local Government the powers given by this section, clause (b), so far as regards the territories subject to such Government.

## SCHEDULE I.

## Duties.

Persons whose annual income shall be assessed at not less than

|         |                  |       |           |                        |
|---------|------------------|-------|-----------|------------------------|
| Rs. 750 | but at less than | 1,000 | shall pay | Rs. 9 0 0              |
| Ditto   | "                | 1,000 | "         | " 13 0 0               |
| Ditto   | "                | 1,500 | "         | " 18 0 0               |
| Ditto   | "                | 2,000 | "         | two pies in the rupee. |

## SCHEDULE II.

## Form of Petition under Section 31.

Stamp

eight annas.

TO THE COLLECTOR OF

The

day of

187

The petition of A. B. of

SHEWETH—

1.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of twenty-seven rupees for the year commencing the first day of April 187

2.—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise*] for the three years ending the thirty-first day of December 187 were rupees , as will appear from the documents of which a list is presented herewith.

3.—That such income and profits actually accrued and arose during a period of months and days. [*Here state the exact number of months and days in which the income and profits accrued and arose.*]

4.—That during the said three years your petitioner had no other income or profits.

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded*].

(Signed) A. B.

*Form of Verification.*

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

WHITLEY STOKES,  
*Secy. to the Govt. of India.*





# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, MARCH 18, 1871.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 19.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd March 1871, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 7 of 1871.

*A Bill to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue.*

For the purpose of consolidating and amending the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

#### I.—Preliminary.

Short title. 1. This Act may be called 'The Pensions Act, 1871':  
Extent of Act. It extends to the whole of British India;

And it shall come into force at the expiration of one month from the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

But all rules in regard to the payment of pensions and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent herewith.

#### II.—Rights to Pensions.

3. No Civil Court shall take cognizance of suits to enforce claims to any pensions, or grants of money, or assignments of land-revenue, conferred or made by the British or any former Government.

4. Nothing in section three applies to pensions heretofore granted by Government, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

5. All persons claiming pensions or grants by Government of money or land-revenue shall prefer their claims to the Collector of the District, or Deputy Commissioner, or other officer authorized in this behalf by the Local Government, and such officer shall dispose of such claims in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

#### III.—Mode of Payment.

6. All pensions or grants by Government of money or land-revenue shall be paid by the Collector, or the Deputy Commissioner or other authorized officer, subject to such rules as may from time to time be prescribed by the Chief Controlling Revenue Authority.

7. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grants by Government of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

8. On the application of any person entitled to receive a pension, or grants by Government of money or land-revenue, the place of payment may, if the Chief Controlling Authority thinks fit, be altered.

#### IV.—Miscellaneous.

9. The reduced pay or pension, however called, of any invalid officer, soldier, sailor or retainer of the army or navy, in the military or naval service of Her Majesty or of the East India Company,

and also any monthly or yearly pensions, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor General in Council, or of the Local Government,

and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively,

and also all money due or to become due on account of any such pension or allowance,

shall be exempt from seizure, attachment, or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

10. All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section nine, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

11. Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

12. The Chief Controlling Revenue Authority may, with the consent of the Local Government, from time to time make rules consistent with this Act respecting all or any of the following matters:—

- (1) the place and times and the person at which and to whom any pension shall be paid,
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records,
- (5) correction of such records,
- (6) delivery of certificates to pensioners,
- (7) registers of such certificates, and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

### SCHEDULE.

#### I.—BENGAL REGULATIONS.

| Number and year. | Title or Subject.  | Extent of repeal. |
|------------------|--|-------------------|
| XXIV of 1793     | A Regulation for re-enacting, with Modifications, the rules passed by the Governor General in Council on the 10th June, 1791, for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of land, but included in the Jumma or Revenue payable to Government at the decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished. | The whole.        |

### SCHEDULE —continued.

| Number and year. | Title or Subject.   | Extent of repeal.                              |
|------------------|---|--|
| XXXIV of 1795    | A Regulation for re-enacting, with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.   | The whole.                                     |
| XXIV of 1803     | A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive, Pensions, under the Denominations of Salanah, Rozenah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company. | The whole.                                     |
| I of 1804        | A Regulation for the better Management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.   | Sections twenty-three to twenty-six inclusive. |
| XII of 1805      | A Regulation for the Settlement and Collection of the public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore.   | Section thirty.                                |
| XXII of 1806     | A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions.  | The whole.                                     |
| II of 1811       | A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non-Commissioned Officers.  | The whole.                                     |
| XI of 1813       | A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the Abuses committed in the receipt of Pensions.   | The whole.                                     |
| VI of 1817       | A Regulation to explain the Purport and Intent of the Provision contained in Section II, Regulation XXIV, 1803.   | The whole.                                     |

#### II.—MADRAS REGULATIONS.

|            |   |                      |
|------------|---|----------------------|
| I of 1803  | A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.  | Section forty-three. |
| II of 1803 | A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.  | Section thirty.      |
| IV of 1831 | A Regulation for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred by the Government in consideration of Services rendered to the State, or in lieu of resumed Offices or Privileges, or of Zemindaries, or Pullams forfeited or held under Attachment or Management by the Officers of Government, or as Yeomins or Pensions. | The whole.           |

## SCHEDULE—continued.

## III.—ACTS.

|               |  |            |
|---------------|--|------------|
| XXXI of 1836  | Government Grants ...  | The whole. |
| XXIII of 1838 | Exemption of grants from attachment.   | The whole. |
| VI of 1849    | An Act for securing Military and Naval Pensions and Superannuation Allowances. | The whole. |

## STATEMENT OF OBJECTS AND REASONS.

The law relating to pensions is at present distributed over nine Regulations of the Bengal, three Regulations of the Madras, and two Regulations of the Bombay, Codes, as well as three Acts of the Governor General in Council.

The main provision of the law as expressed in the Bengal Regulations XXIV, 1793, section 17, XXXIV, 1795, section 14, XXIV, 1803, section 16, and VI, 1817, and the Madras Regulation IV, 1831, section 2, is the reservation to Government of the right to determine on all claims to the continuance of pensions, and the exclusion of the jurisdiction of the ordinary Courts of judicature in regard to such claims.

In the Bombay Presidency, under the operation of Regulations XXIX, 1827, and VII, 1830, the Civil Courts are barred from the cognizance of suits to enforce such claims throughout the Dekhan, Khandeish and the South Mahratta Country.

The Bengal Regulations, though expressly applicable only to Bengal and the North-Western Provinces, are practically in force throughout the more recently acquired provinces; hence the law as above described applies to all India, except a portion of the Bombay Presidency.

Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases.

The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration.

The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India.

F. R. COCKERELL.

27th February 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March 1871, and was referred to a Select Committee with instructions to make their report thereon in a fortnight:—

No. 8 OF 1871.

## THE LAND IMPROVEMENT BILL, 1871.

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## PREAMBLE.

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## Sections.

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## CHAPTER II.—Advances of Money for making Improvements.

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8. Proof of service of notice.
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12. Advances recoverable as arrears of land-revenue.
13. Advance not to raise presumption of ownership.

## CHAPTER III.—Supplementary Powers.

14. Power to fix aggregate amount of advances.
15. Power to make rules.  
Schedule.

*A Bill to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement.*

WHEREAS it is expedient to consolidate and amend the law relating to advances of money by the Government for the construction of permanent works of agricultural improvement; It is hereby enacted as follows:—

## CHAPTER I.—Preliminary.

1. This Act may be called "The Land Improvement Act, 1871":

It extends only to the territories respectively under the government of the Lieutenant Governors of the North-Western Provinces and the Panjáb and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma;

And it shall come into force on the passing thereof.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified therein.

Interpretation-clause.

3. In this Act—

"Land" means land used for agricultural purposes, or waste land which is cultivable;

"Land."

"Rent" means whatever is payable or deliverable for the use or occupation of land;

"Rent."

"Landlord" includes a superior, mesne or immediate proprietor and any person entitled for the time being to receive rent directly from a tenant;

"Landlord."

"Tenant" means any person actually using or occupying land, and liable to pay or deliver rent therefor;

"Tenant."

"Improvement."

"Improvement" means:—

1st, wells, tanks and other works for the storage, supply, or distribution of water for agricultural purposes, or the preparation of land for irrigation;

2nd, works for the drainage of land;

for the reclaiming of land from rivers, or from other waters;

for the protection of land from floods, or from erosion or other damage by water;

3rd, the reclaiming, clearing, and enclosing of waste lands for agricultural purposes;

4th, the clearing of the land from stones or other obstacles to cultivation;

5th, the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value; and

"Collector" means the Collector of land-revenue, or the Deputy Commissioner, or any officer

"Collector."

authorized by the Local Government to exercise the powers of a Collector under this Act.

## CHAPTER II.—Advances of Money for making Improvements.

4. Any landlord or tenant desiring to make an improvement in any land

Application for advance.

of which he is in possession or occupation, and to obtain an advance of money to enable him to make such improvement, may make an application to the Collector for such advance, stating at the same time the nature and amount of the security which the applicant proposes to furnish for the repayment of such advance.

5. On receiving such application, the Collector

Procedure of Collector on receiving application.

shall make such inquiry as he deems necessary to ascertain the propriety or otherwise of making the advance.

When Collector may grant certificate.

6. If the Collector be satisfied—

(a) that the improvement will immediately or prospectively increase the annual value of the land to be improved by an amount exceeding the largest sum to be charged in any one year under this Act for the repayment of the advance, and

(b) that the proposed security is adequate,

he may grant to the applicant a certificate sanctioning an advance of money for the purpose of making the improvement.

7. If (a) the applicant is a tenant not having the right to transfer his interest in the land without the consent of the landlord,

Notice to landlord.

or (b) if the applicant is a tenant having such right, but the amount of the advance applied for exceeds the value of the said interest,

and if, in either of such cases, the Collector is not satisfied that the proposed security is adequate,

the Collector shall serve notice of the application on the landlord personally or upon his agent authorized to receive service on his behalf.

8. No such notice shall be deemed to have

been served unless the service is acknowledged by the landlord or his agent, or the fact of its having been made be otherwise established to the satisfaction of the Collector.

9. If the landlord does not within one month after such service signify in writing to the Collector his dissent to the making of the proposed improvement, or if he dissents but, after the Collector has explained his reasons for thinking the improvement desirable, withdraws in writing such dissent, the Collector may grant the certificate.

Contents of certificate. 10. The certificate shall

(a) state the amount of the advance;

(b) state the conditions under which it is to be made and recovered;

(c) specify the land or interest in the land (if any) which, in the event of any sum not being repaid by the person receiving the advance, shall become chargeable for the repayment of the same; and

(d) state the nature and amount of any other security furnished.

11. When such certificate has been granted, the Collector may make the advance therein mentioned.

12. All sums stated in such certificate shall, when they become due, be recoverable from the person to whom the advance was made, or from any person who has become security for the repayment thereof, as if they were arrears of land revenue due by the person to whom the advance was made or by his security.

If any such sum cannot be so recovered, it shall be recoverable as if it were an arrear of revenue due on the land specified in the said certificate:

Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of no person, other than such landlord or tenant, in the said land shall be sold under this section.

13. The making of an advance under this Act to a tenant shall in no case be deemed to confer upon him any right to or interest in the land in respect of which the advance is made, or to alter the respective rights or interests of landlord and tenant in such land.



CHAPTER III.—*Supplementary Powers.*

14. The Governor General in Council shall determine, from time to time, the aggregate amount which may be applied by the Local Government for the purpose of making advances under this Act, or which may be permitted to remain outstanding and not repaid or discharged at any one time, on account of such advances.

15. The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act in all matters connected with its enforcement, and may, from time to time, alter and add to the rules so made.

Such rules shall, among other things, make provision:—

1st, for prescribing the manner in which applications may be made by persons desiring to obtain advances from the Collector for making improvements, and in which inquiries relating to such applications shall be conducted;

2nd, for prescribing the forms which are to be used in any proceeding under this Act;

3rd, for determining the conditions under which such advances may be made, and under which they are to be repayable;

4th, for securing the due expenditure of such advances, and the due execution, inspection, and maintenance, during the term fixed for the repayment of the advance, of the improvements for which the advances are made;

5th, for keeping and auditing the accounts of such advances;

6th, for making local enquiries or otherwise carrying out the provisions of this Act.

Any sums expended by the Collector in accordance with rules made under this section shall be recoverable as if they were part of the advance in connection with which they were made.

## SCHEDULE.

*Bengal Regulations.*

| Number and Year. | Title.  | Extent of repeal.                     |
|------------------|---|---------------------------------------|
| II. 1793.        | A Regulation for abolishing the Courts of Maul Adawlut or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewanny Adawlut; and prescribing rules for the conduct of the Board of Revenue and the Collectors. | Sections twenty-three and forty-four. |
| XIV. 1793.       | A Regulation for the recovery of arrears of the public revenue assessed upon the lands, from Zemindars, independent Talookdars, and other actual proprietors of land, and farmers of land holding farms immediately of Government.  | Section forty.                        |

## SCHEDULE—continued.

## BENGAL REGULATIONS—continued.

| Number and Year. | Title.   | Extent of repeal.  |
|------------------|--|--------------------|
| III. 1794        | A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and for prescribing the process by which Tehsildars are to demand payment of arrears; and for enabling the Collectors to recover from Native Officers employed under them, public money or papers which they may embezzle or retain; and for expediting the trial of causes relating to the public revenue or the rents of individuals. | Section eight.     |
| VI. 1795         | A Regulation prescribing the process by which the Collector and the Tehsildars are to realize the public revenue payable from the lands in the province of Benares.  | Section forty-six. |
| XLVI. 1795       | A Regulation for extending to the Province of Benares, Regulation XXXIII, 1793, entitled, "A Regulation for re-enacting, with Modifications, the Rules passed on the 11th February and 21st October, 1791, for repairing the Embankments kept in Repair at the public Expense; and for encouraging the digging of Tanks or Reservoirs and Watercourses, and making Embankments.  | The whole.         |
| XLIV. 1803       | A Regulation prescribing Rules for the Repair of Watercourses, Wells, and of other Works constructed for the Improvement of the Cultivation of the Lands, and kept in Repair at the public Expense, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, and for affording Encouragement to Individuals to construct such Works.   | The whole.         |

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate and amend the law relating to advances of money by the Government for the construction of works of agricultural improvement.

Almost from the commencement of the British rule in India, the Government has recognized the duty of making advances, usually called *takkavi*, to the owners and occupiers of land, for the purpose of promoting the construction of minor works of agricultural improvement, not requiring much engineering skill or the employment of large numbers of labourers, but of such a description that they can be designed and carried out by the people themselves. The existing law upon the subject is contained in the Regulations mentioned in the schedule to the Bill. It is provided by these enactments that *takkavi* advances shall be recoverable by the same processes which are applicable to the recovery of arrears of land-revenue, and the security for repayment is thus rendered complete.

The provisions of the Regulations in question are, in some respects, hardly suited to the circumstances of the present time. The consolidation of the existing law upon the subject is necessary, and it is desirable to take the opportunity of amending the law where it is defective.

The system under which *takkavi* advances have long been made in India for permanent agricultural improvements, and which it is proposed to continue under the present Bill, is identical in principle with that which has been carried out, with admirable results, in the United Kingdom, by means of the Land Improvement Acts, and it is believed that this principle may properly receive a wider and more systematic development in India than has hitherto been given to it.

The Bill defines the classes of works for which the assistance of the Government may be granted; it authorizes the Local Governments, with the previous sanction of the Governor General in Council, to make rules prescribing the manner in which applications for advances may be made; the conditions under which advances may be granted, and under which they will be re-payable; for securing the due expenditure of the advances, the proper execution, inspection and maintenance of the works for which the advance was made; and for the keeping and auditing of accounts.

Long experience has shown that the system of granting advances of this description cannot throw any financial burden on the public, for no advance can be made unless the reproductive character of the work is certain, while the security for the repayment, both of the capital and interest, will be in every case complete.

The Bill refers only to advances for works of permanent agricultural improvement. A vicious system formerly prevailed in some parts of India, under which nominal advances, called *takkavi*, were often made to liquidate balances due on account of Government revenue, and for other temporary purposes. This system had nothing in common with that described in the present Bill.

JOHN STRACHEY.

The 16th January 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations.

No. 9 OF 1871.

*A Bill to provide for the levy of rates on land in Oudh.*

WHEREAS it is expedient to provide for the levy of rates on land in Oudh to be applied to local and provincial purposes; It is hereby enacted as follows:—

1. This Act may be cited as "The Oudh Local Rates Act."

It extends only to the territories under the administration of the Chief Commissioner of Oudh.

Local extent.

and it shall come into force on the first day of April 1871.

Commencement.

2. In this Act—

"Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned;

Interpretation-clause.

"Landlord" means the person in receipt of the rent of any land, and responsible for the payment of the land-revenue, if any, assessed on the estate. It also includes a Mutfidar or other person holding land, the land-revenue of which has been released, compounded for, redeemed, or assigned;

"Landlord."

"Estate" means all or any part of a village separately assessed to the land-revenue, or separately exempted from payment thereof; and

"Annual value" means as follows:—

"Annual value."

(1) In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue assessed on an estate;

(2) In cases in which such settlement is not liable to such revision, or in which the land-revenue or a portion thereof has been released, compounded for, redeemed, or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable a land-revenue on the estate.

3. A rate, not exceeding one and a quarter per cent. on the annual value, shall be assessed on every estate.

Rates assessable.

Such rate shall be payable by the landlord independently of, and in addition to, any land-revenue for the time being assessed on the estate and any local cesses now imposed thereon.

4. Every landlord may recover from his co-sharers or pattidars, if any, a share of the rate bearing the same proportion to the whole rate that the share of such co-sharer or pattidar, recorded at the time of the settlement, bears to the whole estate for the rate on account of which such landlord is responsible.

Power to recover contribution.

5. In any case in which the rate is charged on a landlord on account of land in the use or occupation of an under-proprietor, permanent lessee or a tenant with right of occupancy, such landlord may realize from such under-proprietor, lessee or tenant, a share of the rate bearing the same proportion to the whole rate that the share of such under-proprietor, lessee or tenant, in the annual value of the land on which the rate is charged, bears to half the annual value of such land.

Rate on land in the occupation of an under-proprietor, or tenant with right of occupancy.

6. Suits for the recovery from co-sharers, under-proprietors, permanent lessees, and tenants with rights of occupancy, of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of

Jurisdiction over suits as to rates.

such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh,

and the provisions of the Oudh Rent Act, chapters VII, VIII and IX, shall apply to such suits.

7. In case of revision of the land-revenue of any estate in consequence of alluvion or diluvion, rates assessed under this Act shall also be liable to revision.

8. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund, and, subject to the provisions of section nine, the balance for the time being at the credit of such fund shall be applied for the benefit of the province of Oudh in such manner as the Chief Commissioner from time to time directs.

9. The Local Government shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes—

- (1) The construction, repair, and maintenance of roads and communications ;
- (2) The construction and repair of school-houses, the maintenance and inspection of schools, and the training of teachers ;
- (3) The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort or convenience.

Such assignment shall not be less and may be more than seventy-five per cent. of the total sum assessed under this Act in such district.

10. Any portion of such assignment which remains unexpended at the end of the financial year in which the assignment was made shall, unless the Local Government otherwise directs, be held to be a portion of the general provincial fund mentioned in section eight.

11. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of the assignment made under section nine, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

12. The Local Government shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of assisting in determining how the amount mentioned in section nine shall be applied, and in the supervision and control of the expenditure of such amount.

Provided that not less than one-half of the members of such Committee shall be persons not in the service of the Government, and owning or occupying land in the district, or residing therein.

The Local Government shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

13. The Chief Commissioner may, by notification, from time to time,

- (a) prescribe by what instalments and at what times any rate imposed under this Act shall be payable, and by whom it shall be collected and paid ;
- (b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement ;
- (c) exempt any portion of the territories under his administration from the operation of this Act.

Every notification under this section shall be published in the local official Gazette.

#### STATEMENT OF OBJECTS AND REASONS.

The Resolution of the Government of India, in the Financial Department, dated the 14th December 1870, confers upon Local Governments additional responsibilities for the administration of certain departments of the public service, specially connected with local and provincial requirements. It is proposed largely to reduce the amount which the Imperial Government has hitherto levied from the public by direct taxation, and it has become necessary to diminish, to a small extent, the grants hitherto made from the imperial revenues for expenditure on local and provincial purposes. In Oudh, many works of local public improvement are urgently required, but the funds already at the disposal of the Government of the Province are insufficient, and, for the reasons just stated, no further assignment from the imperial revenues can, under existing circumstances, be made. To supplement these funds, it is proposed by the Local Government to impose a small additional rate on the land.

This rate will be identical in its nature with the cesses for roads, schools and other local purposes which have long been levied, and with which the people have been familiar since the establishment of the British Government in Oudh. The more influential and wealthy representatives of the Taluqdars have signified to the Chief Commissioner their approval of the proposed measure.

The Bill imposes on all land in Oudh which has been assessed to the land-revenue, or assigned to Muáfidars and others, a rate not exceeding one and a quarter per cent. on the annual value of the land. The rate will be payable by the landlord, but where there are co-sharers, under-proprietors, or tenants with rights of occupancy, who intercept a portion of the annual value of the land, he will be entitled to recover from such persons a share in the rate bearing the same proportion to the whole rate as the landlord's share in the profits of the land bears to the share of the subordinate holder.

JOHN STRACHEY.

The 10th March 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations.

No. 10 OF 1871.

*A Bill for the levy on Land of rates to be applied to provincial local purposes in the North-Western Provinces.*

WHEREAS it is expedient to provide, in the North-Western Provinces of the Presidency of Fort William, for the levy on land of rates to be applied to local purposes; It is hereby enacted as follows:—

I.—Preliminary.

1. This Act may be called "The North-Western Provinces Local Rates Act, 1871."

It extends only to the territories subject to the Lieutenant-Governor of the North-Western Provinces,

and it shall come into force on the first day of April 1871.

Interpretation-clause.

2. In this Act—

"Commissioner" means Commissioner of a Division;

"Collector" means the Head Revenue Officer of a district;

"Division" and "district" mean the tracts of country ordinarily known by such names for purposes of civil administration;

"Land" means land used for agricultural purposes, or waste land which is cultivable.

"Rent" means whatever is payable or deliverable for the use or occupation of land.

"Tenant" means any person using or occupying land, and liable to pay or deliver rent therefor.

"Landlord" means the person in possession of an 'estate' or a share of an estate, or of the rents and profits of such estate or share.

"Estate" means all or any part of a village separately assessed to the payment of land revenue, or of which the land revenue has, either wholly or in part, been released, compounded for, redeemed, or assigned.

"Annual value" means as follows:

- (1). In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;
- (2). In cases in which such settlement is not liable to such revision, or in which the land-revenue has been wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

"Local purposes" means—

- (1). The construction, repair and maintenance of roads and communications;
- (2). The maintenance of the police;
- (3). The construction and repair of school-houses, the maintenance and inspection of schools, and the training of teachers;
- (4). The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

II.—Rates on Land in Estates in Districts of which the Settlement is liable to Revision.

3. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX of 1833 has expired, shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate.

Provided that in estates in which, before the passing of this Act, provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of a rate levied under the former part of this section.

III.—Rates on Land in Estates of which the Land Revenue is not liable to periodical Revision.

4. Every estate situated in a district of which the land-revenue is not liable to periodical revision, shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes not exceeding two annas for each acre under cultivation or which has been cultivated within the three years next before the assessment of the rate.

5. The rate shall be paid by the landlord independently of and in addition to any land-revenue assessed on the estate, and in addition to the cess levied now on account of roads.

6. The Lieutenant-Governor shall, from time to time, prescribe rules for ascertaining the area of the cultivated land assessable under section four.

7. The landlord may recover, from every tenant paying rent to him in respect of land on which such rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate assessed on the land held by such tenant.



8. The Lieutenant-Governor may from time to

Power to make rules as to when a landlord may recover rates from tenants holding at fixed or beneficial rates.

time make rules consistent with this Act, for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate assessed on the land held by such tenants.

IV.—Manner in which the Rates are to be expended.

Rates to be carried to general fund.

9. The proceeds of all rates levied under this Act shall be carried to the credit of a general fund.

10. The Local Government shall, from time

Assignments from general fund.

to time, make an assignment from such fund of the amount to be applied in each district for expenditure for local purposes.

Such assignment shall not be less than seventy-five per cent. of the total sum assessed under this Act in such district.

11. In the case of works which benefit more

Works benefiting several districts.

districts than one, the Local Government may determine what proportion of the expense of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

12. Any portion of such assignment remaining

Unexpended portion of assignment.

unexpended at the end of the financial year in which the assignment was made shall, unless the Local Government otherwise specially directs, be held to be a portion of the general fund mentioned in section nine.

13. Accounts of the receipts on account of all

Accounts to be kept.

rates levied under this Act, and of the receipts and expenditure of such assignment, shall be kept in each district.

The details of such accounts shall, at all reasonable times, be open to the inspection of the Committee appointed under section fourteen.

An abstract of such accounts shall be prepared annually in English and in the Vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

14. The Local Government shall appoint, in

Local Committees.

each district, a Local Committee, consisting of not less than six persons, for the purpose of assisting in the determination of the objects to which any money made available in accordance with this Act for expenditure within the district for local purposes shall be applied, and in the supervision and control of the expenditure incurred.

The Local Government shall, from time to time, prescribe the manner in which the Members of such Committee shall be appointed or removed, and shall define the functions and authority of

such Committee: Provided that not less than one-half of the Members of such Committee shall be persons not in the service of the Government, and owning or occupying land in the district, or residing therein.

V.—Miscellaneous.

15. Suits for the recovery from co-sharers,

tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included among the suits mentioned in section twenty-three of Act No. X of 1859 and in section one of Act No. XIV of 1863,

and appeals from decisions in such suits shall be cognizable in accordance with the provisions of Act No. X of 1859 and Act No. XIV of 1863.

16. In matters connected with the assessment

and collection of any sum

Limitation of appeals. leviable under this Act, ap-

peals to the Commissioner from the orders of the Collector, and appeals to the Board of Revenue from the orders of the Commissioner, shall be presented within thirty days from the date of the order.

17. The Lieutenant-Governor may invest any

Power to invest subordinate officers with powers of Collector. officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act. The orders passed by any officer so invested shall be subject to revision by the Collector, but shall be appealable to the Commissioner only.

18. In case of revision of the land-revenue of

Revision of rates in any estate in consequence of cases of alluvion or diluvion. alluvion or diluvion, rates assessed under this Act shall also be liable to revision.

19. All sums due on account of any rate im-

posed under this Act shall be

Recovery of rates. recoverable as if they were

arrears of land-revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

20. The Lieutenant-Governor may, by notification from time to time,

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be collected and paid to Government;

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(c) exempt any portion of the territories within its jurisdiction from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act.

Every notification under this section shall be published in the *Government Gazette, North-Western Provinces*.

STATEMENT OF OBJECTS AND REASONS.

The Resolution of the Government of India in the Financial Department, dated 14th December 1870, confers upon Local Governments the charge of certain Departments of the public service spe-

cially connected with local requirements, and reduces the amount of the grants hitherto made for those services from the Imperial Revenue. With the object of supplementing those grants, and of providing the means of carrying out many works of local improvement which are urgently required, but for which under existing circumstances no assignments can be made from Imperial Funds, the Lieutenant-Governor of the North-Western Provinces desires to impose additional rates on the land. The present Bill is intended to give the necessary powers to the Local Government.

In districts temporarily settled, a rate of five per cent. on the annual value of every estate has been hitherto imposed, on the revision of the assessment of the Government demand on account of land-revenue, made under Regulation IX of 1833. It is now proposed to impose this rate on all such estates of which the settlement has expired, without waiting for the regular revision of the assessment.

In the permanently settled districts, a rate of one per cent. on the Government demand on account of land-revenue is now paid by landlords. The amount realized by this rate is altogether inadequate to meet the local requirements of these districts; and it is therefore proposed to levy a further rate of two annas on each acre of cultivated land, in all estates of which the land-revenue is not liable to periodical revision, giving the landlord power to recover one-half the rate levied from the tenants holding under him.

J. F. D. INGLIS.

The 10th March 1871.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations :—

No. 11 of 1871.

*A Bill for imposing a duty on certain trades and dealings in the North-Western provinces and Oudh.*

Whereas it is expedient to impose a duty on certain trades and dealings in the North-Western Provinces and Oudh; It is hereby enacted as follows :—

1. This Act may be called "The License Tax (North-Western Provinces and Oudh) Act."

It extends to the territories respectively subject to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, except such districts or tracts as the Local Government may from time to time, permanently or for a fixed period, exempt from its operation;

And it shall come into force on the first day of April 1871.

Interpretation clause.

2. In this Act—

"District" means the tract of country ordinarily known by such name for purposes of Civil Administration.  
 District.  
 "Collector of the District" means the Head Revenue Officer of a District.  
 Collector of the District.  
 "Collector" means any officer subordinate to the Collector of the District invested with all or any of the powers of a Collector of a District.  
 Collector.

3. Every person falling under any of the heads specified under Schedule A Duty payable by person coming under Schedule A. hereto annexed, and carrying on (whether on behalf of himself or any other person) his trade or dealing, shall be required to pay a duty fixed by the Local Government not exceeding the duty specified in Schedule B hereto annexed.

4. For the purposes of this Act, trades and dealings shall be divided into the three classes enumerated in Schedule A.  
 Classification of trades.

5. In all cases of doubt or objection, the Collector of the District shall decide the class, if any, under which any person shall fall. There shall be no appeal from such decision.  
 Collector to determine class.

6. On or before the first day of April in this year and the first day of January in every subsequent year, the Collector shall make a list of the persons liable to pay duty under this Act, and such list shall state the trade or dealing of each of the persons therein named, and the duty payable by them.  
 List of persons liable to pay duty.

All lists made under this section shall be filed in the office of the Collector.

The Collector shall, at or about the same time, issue a notification, in such form as the Local Government directs, showing the classes assessable under this Act, and the rate at which each class is assessed, with such other information as the Local Government may direct.

The notification shall be published in the principal mahallas or ganjes of all towns, and in the chaupai, or other public place, in all villages concerned.

7. So soon as may be practicable after the issue of such notification, notice shall be served on each person assessed: provided that in any year it shall not be necessary that such notice shall be served on any person who may have been assessed under this Act in the year immediately preceding.

Such notice shall contain—  
 the name and designation of the person assessed,  
 the class under which he falls,  
 the amount payable,  
 the date or dates on which payment is to be made,  
 the mode and place of payment,  
 the penalty incurred by failure to make payment of the amount on the given date,  
 Notice to persons assessed.

and shall notify that if the person so served continues his trade or dealing, payment of the amount specified in the notice must be made within thirty days next after the first day of January of each successive year.

**8. Payment of the prescribed duty shall in all cases be made to the Collector within the district in which the trade or dealing is carried on: provided that**

**Payment of duty.** in all cases where the trade or dealing is carried on in more than one district, payment shall be made in one district only, under the rules prescribed in this behalf by the Local Government.

**9. The Collector shall thereupon grant a license to the person paying such duty. Such license shall be signed by the Collector or by**

**Grant of license.** any officer whom he authorises in this behalf, and shall specify—

(1). The date of the grant thereof.

(2). The name and trade or dealing of the licensee.

(3). The sum paid for the license.

(4). The place or places where the licensee intends to carry on his trade or dealing for the ensuing year.

**10. Receivers or managers appointed by any Court in India, and the Courts of Wards, shall be chargeable under this Act in respect of any trade or dealing, of which the income is officially in their possession or under their control.**

**11. When any trustee, guardian, curator, committee, or agent is assessed under this Act in such capacity, or when any receiver appointed by any Court or Court of Wards is assessed under this Act, every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as such receiver or Court of Wards, retain so much as is sufficient to pay the amount of the assessment.**

**Power to retain assessment paid by trustee, &c.**

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

**12. The Collector of the District may require any Municipality constituted under Act No. XXVI of 1850, Act No. XVIII of 1864, or Act No. VI of 1868 to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons assessable under this Act resident within the limits of such Municipality, together with the class under which they fall and the amount payable by them.**

**Power to require returns from Municipalities.**

If the Municipality fails within the period prescribed to make such returns, or if it make such returns, but the Collector of the District has reason to doubt their accuracy, he may at any time cause a return showing the names and numbers aforesaid to be prepared in such manner as may be prescribed by the Local Government.

**13. When the return mentioned in section twelve has been furnished or prepared, notice shall be served on the Municipality calling on**

**Notice to Municipalities.**

it to pay to the Collector of the District, within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Any Municipality may, subject to the provisions of section fifteen, appropriate all or any part of its revenues to the payment of the sum assessed upon it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums shall be raised in accordance with the Act under which it is constituted.

**14. Every person not resident within the limits of a Municipality who is found, after expiry of the period specified in the notice to be served under section seven, carrying on any trade or dealing specified in Schedule A without possession of a license under this Act,**

**Penalty for carrying on trade without license or for refusing to produce license.** and every person required by this Act to take out a license who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer empowered in writing by the Collector to make such requisition,

shall be punished on conviction before a Magistrate with a fine amounting to twice the sum payable by him under Schedule B.

There shall be no appeal from the order of a Magistrate under this section.

**15. Sums assessed upon Municipalities under Assessments to be a section thirteen shall be first charge. deemed, after payment of police charges, a first charge on their revenues, anything in Act No. VI of 1868 notwithstanding.**

**16. All arrears due under this Act may be recovered as if they were fines.**

**Recovery of arrears.** **17. Nothing in this Act applies to persons being itinerant vendors only.**

**18. The Local Government may from time to time by notification exempt from the operation of this Act,**

**Powers of Local Government.** (a) any portion of the territories under his Government,

(b) alter or add to Schedule A,

(c) make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

All notifications under this section shall be published in the local official Gazette, and no notification under clause b shall take effect until the first day of April next after its publication.

## SCHEDULE A.

### CLASS I.

Bankers.  
Wholesale dealers in country produce.

### CLASS II.

Cloth-sellers.  
Metal Vessel-sellers.  
Fuel-sellers (Talwalla).  
Chowdrees.  
Agents.  
Letters-out of Carriages, Buggies, &c.  
Contractors.

## CLASS III.

## Sellers of Sweetmeats.

|   |   |
|---|---|
| " | Tobacco.  |
| " | Grocery and Spices.   |
| " | Salt.   |
| " | Pan.  |
| " | Bracelets.  |
| " | Grain and Provisions.   |
| " | Butcher's-meat.   |
| " | Perfumes.   |
| " | Jewellery.  |
| " | Gold and Silver Laces, Threads &c.                            |
| " | Ghee.   |
| " | Lime.   |
| " | Articles made of stone: including<br>Grindstones and Mortars. |
| " | Miscellaneous Articles of European<br>manufacture.            |
| " | Silk.   |
| " | Shoes and Boots.  |
| " | Drugs and Medicines.  |
| " | Petty Timber Dealers.   |
| " | Blankets, Felt, &c.   |
| " | Durrees.  |
| " | Leather.  |
| " | Books.  |
| " | Manufactured Iron.  |
| " | Wood.   |
| " | Letters-out of Ekkas.   |
| " | " Camels.   |
| " | Brokers.  |
| " | Weighmen.   |

## SCHEDULE B.

Every person who shall exercise any trade, dealing, or profession, for gain or profit, for any period between the 1st of April in one year and the 1st of April in the succeeding year, shall pay for such period:—

|                       |     |     |     |   |
|-----------------------|-----|-----|-----|---|
| If belonging to Class | I   | ... | Rs. | 6 |
| "                     | II  | ... | "   | 4 |
| "                     | III | ... | "   | 2 |

## STATEMENT OF OBJECTS AND REASONS.

This Bill purports to impose a duty on trades, dealings and professions in the North-Western Provinces and Oudh, and its object is to confer upon the Government of those territories the powers necessary to raise a part of the sum required for local expenditure.

The trades, dealings and professions to be taxed are enumerated in schedule A. The duty will be levied on them if carried on in the North-Western Provinces or Oudh. Section eighteen gives the Local Government power to alter this schedule, by notification in the Gazette. It has been considered necessary to reserve this power because the schedule, as at present framed, may be found hereafter to have omitted trades, dealings, or professions, which should be included; or, on the other hand, it may be found necessary to exempt trades, dealings or professions enumerated in it, or to alter the classification.

The schedule has been framed so as to include only trades, dealings and professions which, it is believed, will everywhere be competent to pay the rate assessed. Exemption is restricted to the case of persons having no fixed place for carrying on trade, such as hawkers and pedlars.

Trades, dealings and professions have been divided into three classes; the maximum rate to be charged on each class being six, four, and two Rupees per annum respectively. The amount assessed on any person will not be calculated on his supposed income or profits, but according to the class into which the trade, dealing, or profession he carries on, may fall.

The power of determining the class under which, in doubtful cases, any person may fall is reserved by section five to the Collector without appeal.

It has been provided by section eight that payment shall, in all cases, be made to the Collector of the District in which the trade, dealing, or profession is carried on, and when it is carried on in more than one District, the District in which payment is to be made, is to be determined by the Lieutenant-Governor.

Municipalities constituted under Act VI of 1868 will be assessed in a lump sum, based upon returns, to be furnished by the Municipality, of persons assessable under the Act. If the Collector has reason to doubt the accuracy of this return, power is given to him by section twelve to cause a return to be prepared under his own orders.

Section thirteen gives Municipalities so assessed the power to raise the sum required by any of the means enumerated in the Act under which it is constituted.

The remaining sections of the Bill do not require notice.

J. F. D. INGLIS.

The 1st March 1871.

WHITLEY STOKES,  
Secy. to the Govt. of India.



The following Bill is published for general information, by order, of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations :—

No. 12 of 1871.

## THE INDIAN INCOME TAX BILL.

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## A BILL FOR IMPOSING DUTIES ON INCOME.

For the purpose of imposing duties on income arising from offices, property, professions and trades; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

- Short title.** 1. This Act may be called "The Indian Income Tax Act."
- Local extent.** It extends to the whole of British India;
- Commencement of Act.** It shall come into force on the first day of April 1871.
- Repeal of Act XVI of 1870.** 2. On and from the said day, Act No. XVI of 1870 shall be repealed:

Provided that such Act shall continue in force until the first day of April 1872

- (a) as to taxes due thereunder, and
- (b) as to assessments which ought to have been made thereunder, but which have not hitherto been made and completed.

The references made in the Court Fees Act, Schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

- 3.** In this Act—unless there be something repugnant in the subject or context—

**Interpretation-clause.** "Income" means income and profits accruing and arising in British India.

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace:

"Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Firm." "Firm" includes a Hindú undivided family:

"Person." "Person" includes a firm:

"Defaulter." "Defaulter" includes a firm making default under this Act:

"Rackrent" means the full rent or value at which lands or houses are worth to be let for the year.

In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

- 4.** Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment; when such pay and allowances do not exceed five hundred rupees per mensem;

or to any moveable or immoveable property solely employed for religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

- 5.** The Governor General in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor General in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India*.

## PART II.

## DUTIES ON OFFICES.

- 6.** A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company,

and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

- 7.** No income amounting to less than sixty-two rupees eight annas per mensem shall be chargeable under this Part.

- 8.** In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

- 9.** In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April in each year, deliver, to the Collector, in such form as may be prescribed by the Governor General in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to sixty-two rupees, eight annas per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

10. Whenever the duty leviable under this Part in April 1871 or any subsequent month, is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, it shall be deducted from such pay, annuity or pension at some subsequent time of payment.

### PART III.

#### COMPANIES.

11. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee,

and in the case of every other Company pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee,

and shall prepare, and, on or before the thirtieth day of April in each year, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts.

12. If in the case of any Company no such accounts have been made up within any year ending on the thirty-first day of March, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and,

on or before the next following thirtieth day of April, deliver to the Collector a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

13. Whenever the Collector has reason to believe that any statement or return mentioned in section eleven or section twelve is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's office and to produce for the inspection of the Collector such of the accounts of the Company as refer to the year mentioned in section eleven or section twelve (as the case may be) and as are in the possession or power of such Treasurer, Secretary, Agent or Manager.

The Collector shall thereupon make an order determining the amount at which the company shall be assessed under this Part, and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

14. Every such Treasurer, Secretary, Agent or Manager is hereby indemnified for all payments made in pursuance of section eleven or section thirteen.

### PART IV.

#### DUTIES ON INTEREST ON GOVERNMENT SECURITIES.

15. A yearly duty of two pies in the rupee shall be levied upon all interest on securities of the Government of India.

16. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid,

and shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs,

and shall be answerable to the Government of India for such payment.

### PART V.

#### DUTIES ON ALL OTHER INCOME AND PROFITS.

17. A yearly duty shall be levied in accordance with the first Schedule hereto annexed upon all income not chargeable under Part II, Part III, or Part IV of this Act.

18. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were



sole, or to such lunatic or idiot if he were capable of acting for himself.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner, and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

**19.** Every trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent requiring him to deliver on or before a day to be specified in the notice a statement signed by him of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

**20.** Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

**21.** When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity;

or when any receiver or manager appointed by any Court, Court of Wards, Administrator General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, manager, Court of Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

**22.** Owners of lands or of houses occupying the same shall be chargeable in respect of the annual value thereof at the rackrent at which such lands or houses are worth to be let for the year.

**23.** In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion on four thousand rupees or upwards, the Collector shall,

and in the case of every other person so chargeable, the Collector may

cause a notice to be served on him requiring him to fill in a return of his income during the three years ending on the thirty-first day of December next before the date of the notice, and to state in such return the period during which such income has actually accrued.

Such notice shall be in the form to be prescribed by the Governor General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

**24.** Every person on whom such notice is served shall send to or deliver at the Collector's office the return duly filled in and signed by him.

A declaration shall be added by such person at the foot of the return, (a) that the income stated therein is truly estimated on all the sources therein mentioned, (b) that it has actually accrued within the period therein stated, and (c) that he has no other source of income.

**25.** Every person, when required so to do by a notice in the form to be prescribed by the Governor General in Council shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to sixty-two rupees eight annas per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

**26.** The Collector shall from time to time determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed,

and in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

**27.** Every such assessment shall be made upon an average of such person's income for three years ending on the thirty-first day of December next before the date of the assessment, and such average shall be computed upon the period during which the income has actually accrued.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the assessment shall be made according to an average of his income for such period as the Collector shall, under the circumstances, direct.

28. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

Notice to persons chargeable.

(1).—The name and the profession, trade or other source of the income of such person, or in respect of which he is chargeable:

(2).—The year or portion of the year for which the duty is to be paid:

(3).—The place or places, district or districts, where such income accrues; and

(4).—The amount to be paid;

and requiring him within fifteen days from the date of the service either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

29. Such amount shall be paid to the Collector, or, who shall give a receipt for such payment to the person making the same:

Officer to give receipts.

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

30. Every such receipt shall specify—

(1).—The name and source or sources of the income of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4).—The place or places, district or districts, where the income accrues;

and shall be admissible as *prima facie* proof of all matters contained therein.

## PART VI.

### PETITIONS AND APPEALS AGAINST ASSESSMENTS.

31. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed under Part V, may within the period mentioned in the notice mentioned in section twenty-eight, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled:

Provided that no person who has been served with a notice under section twenty-three shall be entitled to apply by petition under this section unless he has made the return required in such notice on or before the day therein mentioned, or unless he satisfies the Collector that he had a sufficient excuse for not making such return.

Proviso.

The petition shall be in the form contained in the schedule hereto annexed, or as near thereto as circumstances admit,

Form and verification of petition.

and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

32. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Hearing of petition.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

33. Any person dissatisfied with any order under section thirteen or section thirty-two may, within fifteen days from the date thereof, on payment of the sum assessed or to which the assessment was enhanced, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

Appeal to Commissioner from order under section 13 or section 32.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the order of enhancement.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, and a copy of the Collector's order thereon and a list of the documents (if any) on which the appellant relies.

Documents to accompany appeal.

Copies of petition and order exempt from fees.

Neither of such copies shall be chargeable under the Court Fees Act.

When the decision on such appeal is in favour of the petitioner, the value of the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Company which he represents, is not chargeable under this Act) the whole sum so paid, shall at once be refunded.

Return of fees and excess.

34. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed, and

Power to summon persons to give necessary information.



may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the income in question.

**35.** Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income not specified in the receipt granted to him under section twenty-nine has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source.

The provisions contained in sections twenty-eight to thirty-four (both inclusive) shall apply to such notice and regulate the procedure thereunder.

**36.** No Advocate, Pleader, or other legal practitioner shall be allowed to appear or plead on behalf of any other person on the hearing of any petition or appeal under this Part.

## PART VII.

### PAYMENT AND RECOVERY OF TAX.

**37.** All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the first day of April in this and every subsequent year:

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-eight upon the person paying the same, and the second instalment on the first day of October.

**38.** If the Collector has caused a notice to be served on any person liable to pay the said second instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, a sum not exceeding twice the amount so mentioned may be recovered from him in manner hereinafter mentioned.

**39.** In any case of default under this Act, the Collector may, if a notice has been served on the defaulter requiring him to pay, within fifteen days from the date of the service, the amount of the tax or instalment due by him under this Act, recover a sum not exceeding double the amount of such tax or instalment.

Every such sum shall be recoverable as if it were an arrear of land-revenue:

Provided that where any person has presented a petition under section thirty-one, such sum shall not be recoverable from him unless, within one week from the passing of the order thereon, he fails to pay the amount (if any) required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

**40.** If within or at the end of the year for which any computation under Part V has been made, the person assessed proves to the satisfaction of the Collector, that his income during such year fell short of the sum so computed, the Collector may cause the assessment made for such year to be amended as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any person assessed under Part V ceases to exercise the profession, or to carry on the trade, in respect whereof such assessment was made, or dies or becomes insolvent before the end of the year for which the assessment was made, or is, from any other specific cause, deprived of or loses the income on which the computation was made,

he or his representative in interest may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the person charged or his representative in interest as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

## PART VIII.

### PENALTIES.

**41.** Every Treasurer, Secretary, Agent, Manager or other person failing to make any payment or deduction, or to prepare and deliver any return required by section nine or section sixteen,

or failing to make any payment or to prepare and deliver in due time any statement or return required by section eleven,

and every trustee, guardian or curator, committee or agent failing to deliver any statement or declaration required by section nineteen,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

**42.** Whoever makes a statement in any declaration or list made or delivered under section twenty-four or twenty-five, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section thirty-one which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

**43.** No person shall be proceeded against for any offence under section forty-one or section forty-two except at the instance of the Collector.

44. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

## PART IX.

## MISCELLANEOUS.

45. Subject to the provisions of section thirty-three, every order made under this Act shall be final and conclusive, and the proceedings of the Collector or Commissioner of Revenue shall not be removable into any Court, or be subject to revision.

46. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

47. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

48. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor General in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

49. The Governor General in Council may from time to time (a) prescribe forms for the returns, notices and lists herebefore mentioned,

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(c) delegate to any Local Government the powers given by this section, clause (b), so far as regards the territories subject to such Government.

## SCHEDULE I.

## Duties.

| Persons whose annual income shall be assessed at not less than | Rs.   |      | but at less than | shall pay |               |
|--|-------|------|------------------|-----------|---------------|
|  | Rs.   | Pies |                  | Rs.       | Pies          |
| Ditto  | 750   | 0    | 1,000            | 9         | 0             |
| Ditto  | 1,000 | 0    | 1,500            | 13        | 0             |
| Ditto  | 1,500 | 0    | 2,000            | 18        | 0             |
| Ditto  | 2,000 | 0    | ...              | two pies  | in the rupee. |

## SCHEDULE II.

## Form of Petition under Section 31.

Stamp  
eight annas.

To THE COLLECTOR OF

The

day of

187

The petition of A. B. of

SHWETH—

1.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of twenty-seven rupees for the year commencing the first day of April 187